SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1933

No. 608

THE COLUMBUS GAS AND FUEL COMPANY,
APPELLANT,

vs.

THE PUBLIC UTILITIES COMMISSION OF OHIO
AND THE CITY OF COLUMBUS, OHIO

APPEAL FROM THE SUPREME COURT OF THE STATE OF OHIO

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Q. Yes, you can do that, can't you?

A. Yes.

Q. Well, do you understand that Mr. Blundon's theory and the theory used in the United Gas by Mr. Lerch in respect to depletion figured out the M c. f. reserve or depletion?

A. I don't know anything about the United Fuel case.

Q. What about Mr. Blundon's theory, as you delight to term it?

A. What about his theory?

Mr. Turner: I do not object to that characterization, Mr. Butler.

Mr. Butler: Yes, I think you are just about that.

The Witness: Read the question, please.

(Question read.)

A. What about his theory as I understand in determining the per cent. of depletion?

Q. Yes.

A. And not depreciation with respect to rock pressure decline? It is possible to determine approximately the percent. of depletion by a rock pressure decline.

Q. Why didn't you tell us that a long time ago?

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[fol. 2239] Mr. Butler: He has told us everything now.

Mr. Turner: If he has not told you that, you can't hear. He has also said something about volume from time to time.

Mr. Butler: Why you know even better than I do that, as you have said, under this assumed case that I gave you, the two things would run along together don't you?

The Witness: They will run parallel, but not in a straight line.

Q. But they run parallel, and that is all that Mr. Blundon's theory is, isn't it, the percent. of depletion by the decline in rock pressure?

A. Yes, that is all.

Mr. Turner: He is sticking to it.

Mr. Butler: Oh, yes, if I had mentioned depreciation, I never would have gotten anywhere.

Mr. Turner: There has never been any question on our side about the answer to depletion.

Mr. Butler: All right, I am glad now we have got that settled after so many weary days.

Mr. Turner: It has been your fault, not ours.

Mr. Butler: All right. The truth shall prevail.

Mr. Turner: Yes, provided she is not hit with a blackjack.

Q. Mr. Pepperberg, these various graphs and studies and exhibits—in your way, as an expert, as a geologist, tell the Commission what the purpose of them is.

A. The purpose of all of these graphs is to show that, assuming a percentage of decline in rock pressure, based on the initial rock pressure and that of a basic date, will not be an indication of the life of the well, and that if applied

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[fol. 2240] to depreciation will not reflect deprecition.

Q. You don't know anything about depreciation, do you?

A. I'll say I don't. But I do know that you can get almost any kind of an extension using Mr. Blundon's figures or the application of the same principle, any kind of a figure that you want.

Q. Don't you mean, Mr. Pepperberg, that you can get any sort of solution with your graphs?

A. Probably.

Q. But at the same time they do show that depletion, not depreciation—I am not trying to bring you over to that—depletion is shown by the decline in rock pressure?

A. Yes, sir.

Q. All right. You heard me read to Mr. Weymouth——

Mr. Turner: He was not here this morning. He was getting up these graphs.

Q. Oh well, when Mr. Weymouth was on the stand, Mr. Pepperberg, I read to him from Mr. Davis' testimony in the United Case, and he states, as he is talking about depletion, something like this: "And for this purpose, I have used the last five years, and I have also found for the same period what their individual decline in rock pressure has been, and what their average decline in rock pressure has been, and I find that the decline in rock pressure is proportioned to the gas production, a remarkably close relation."

Mr. Turner: Are you asking that in connection with the depletion of gas reserves or depreciation, as Mr. Davis was testifying?

Mr. Butler: I am asking——

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[fol. 2241] Mr. Turner: You have to ask it from what Mr. Davis is testifying about.

Mr. Butler: The truth is the truth.

Mr. Turner: Oh, the truth is the truth, certainly it is. But he was not testifying as to depletion or depreciation. He was testifying as to gas reserves.

Mr. Butler: Yes, but Mr. Turner, in connection with those studies, he said, "I find that the decline in rock pressure is proportioned to the gas production, a remarkably close relation."

Mr. Turner: He also said, Mr. Butler, that there were many other things that had to be known besides the rock pressure.

Mr. Butler: Now, Mr. Turner——

Mr. Turner: I want you to give him all of this.

Mr. Butler: I prefer to cross-examine this gentleman.

Mr. Turner: I don't think you can cross-examine that way.

Mr. Butler: I will show you.

Mr. Turner: You have illustrated a good many things to me. I object.

Commissioner Hopple: Call in the gentleman from Toledo.

Q. I want to know if those words I have read you state a principle or a theory that is substantially correct?

A. I believe you started off with "for this purpose". And I would like to know the purpose.

Q. You think it would make some difference?

A. It would make some difference.

Q. Does it?

A. Yes.

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[fol. 2242] Q. Why?

A. I have answered the other part of your question a few minutes ago.

Q. What part? Re-state it. Maybe we agree, and then I can go on.

A. You asked me a few moments ago whether the decline in rock pressure would plot into the same kind of a line as the production, and I said yes.

Q. In other words, is this correct? "The decline in rock pressure is proportioned to the gas production." Is that right?

A. Yes.

Q. All right, Good. That is all I want.

A. That assumes volume.

Q. How?

A. That assumes volume. He has assumed volume there because he is talking volume.

Q. You couldn't have production in the sense that he uses it without having volume, could you? And there wouldn't be anything for there to be a proportion of if you did not have on the one side the decline in rock pressure and on the other, the amount of gas that had been used; there wouldn't be any sense to it, would there?

A. No.

Q. No, of course not. I don't quite understand why you are so insistent, Mr. Pepperburg, that you know little about depreciation and yet are so certain that depletion can not possibly become a measure of depreciation. I don't quite understand you?

A. What do you want me to do? Is that a question?

Q. I thought I was asking for a confession, probably.

Mr. Turner: By yourself?

Mr. Butler: Oh, no, Mr. Turner. Mr. Pepperburg and I are getting along.

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[fol. 2243] Mr. Turner: Yes, but that is not a question. That is just a statement.

Q. Well, I am trying to find out how he assumes, while disclaiming knowledge of depreciation, that you cannot couple depletion with depreciation of the gas wells. That calls for an explanation, if you have any.

A. Depletion has to do with reserves and depreciation would have to do with the observed condition of the physical property in the whole.

Q. How in the world are you going to find out the observed condition of the hole?

A. Well, the used and useful life, or the used and useful purposes to which it can be put, would indicate its condition. If the hole has water in the bottom of it, the well won't deliver and you have to clean it out. If the hole caves, you have to clean it out. But if the hole is there, it is just as good that day to deliver gas through as it was the day it was drilled.

Q. And you call that observed depreciation?

A. Observed from operation.

Q. Well, is that what you engineers call observed depreciation?

A. I am not testifying on that end of it.

Q. Mr. Pepperburg, the Commissioner was asking you about gas well depreciation, and you replied, "I never use the term."

Mr. Turner: What page, Mr. Butler?

Mr. Butler: 5226.

Q. And you replied, "I never use the term 'gas well depreciation'". I guess that is your testimony. I guess I better not charge it up against you until I know. Well, that seems to be yours, Mr. Pepperberg. What did you mean when you say, "I never use the term 'gas well depreciation'"?

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[fol. 2244] A. In connection with per cent of decline in rock pressure.

Q. But Chairman Hopple says, "Now, you have told us about gas well depletion. I wish you would tell us what you mean by gas well depreciation." And you answered, "I never use the term 'gas well depreciation.'"

A. Did I say I never used it or use it?

Mr. Butler: "I never use the term."

Mr. Turner: There was a "d" on it.

Q. Put it in or leave it out. Chairman Hopple then said, "It has been used here in the case. What is your notion about it, if there is such a theory?" And you answered, "What would be my idea?" And the chairman said, "Yes." Now, you went on describing it, and among other things you said, "I am not talking life; I am talking volume." Do you mean that before you use depletion in connection with the depreciation of a gas well, you must have

the volume? You must have the volume and you must have the thousand cubic feet?

A. Will you just kindly read what happened before that?

Q. I will give your whole reply.

A. Yes.

Q. Because we have worried about it. "The Witness: I can give you an idea. I am not an expert on depreciation. If I may use this graph as an illustration, well Number 4252, which is the junior well and is located 1260 feet from well 4049, has a similar pressure. If in any one of those years both of those wells produced approximately an equal amount of gas, if they were in line on the identical days, against the identical line pressures—I am talking about measured volume of gas—we would be able to expect that the future production of the wells would be approximately

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[fol. 2245] the same. I am not talking life. I am talking volume."

A. I meant by that, Mr. Butler, that if two wells produce the same amount of gas under similar conditions in any particular year, as indicated by my answer, "In the same pool," and so forth, that we could expect to get a like amount of gas from each well in the future, but it would be according to the days it was in the line in the future, the volume and not time, because the gas wells are operated intermittently. You can only take gas out of a well at a certain speed, no matter what you do to it. You cannot lift out ten million feet the day you want it.

Q. Well, I am trying to give you fairly the background. Then after you completed that, you said, "Now, to try and answer your question on depreciation, the depreciation of the well and well equipment, as I understand"—and then Chairman Hopple said, "Not well equipment." Then you said, "Just the well? It would be the same proposition one way or the other. When the day occurred that the location is underlaid by a volume of gas that would pay for the drilling and completing of the well, the carrying charges, the usual interest return on investment capital, on that date, your depreciation would start naturally."

A. That was my opinion.

Q. I do not understand what you meant by that. May I read it all to be fair with you? "On that date, when there was just sufficient gas remaining to pay out, your

depreciation will begin. Anything that has happened previous to that, the well has been kept in 100 per cent. condition for production purposes. And if I were calculating depreciation, I would try to determine the amount of money that was spent for the well; I would try to determine the cubic feet of gas at some definite price I expected

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[fol. 2246] to get that I would prorate to the tail end of the life of that well, and take it out through that span of life."

A. I think that is clear. If I can explain it any further, I will do it gladly.

Q. Well, what do you say on that? "When there was just sufficient gas remaining to pay out your depreciation will begin." What did you mean by that?

A. We estimate the amount of gas in a field or beneath a location, and when the time arrives that there is just that amount there which at a certain price will pay for that well, then, as I stated the other day, depreciation would begin. The well has been in 100 per cent. production condition to the date when the minimum amount of gas remains that would pay out.

Q. Well, how in the world could you work a theory like that, Mr. Pepperberg?

A. How could you?

Q. Yes, how would you? What annual depreciation would you fix?

A. I have told you repeatedly that I do not claim to be a depreciation expert.

Q. Well, I admit that, but still I am trying to find out what you meant when you were talking about it.

A. If it took 46 million feet of gas at a definite price to pay out, I would try and determine——

Mr. Turner: Explain the "pay out". What do you mean by "pay out"?

The Witness: To pay for the drilling, the completing, the usual interest charges and the maintenance and the operating expense. If in my opinion 46 million feet of gas at a definite price I expected to get would pay for that money expended for the digging of that well, I would feel

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[fol. 2247] justified in starting my depreciation on a date

when I determined that to be the amount remaining beneath the location.

Q. Well now, that theory isn't either Mr. Lerch's old theory or Mr. Lerch's new theory, nor is it the theory that Mr. Weymouth would like to adopt.

A. I know it is not their theory.

Q. Did anybody ever discover that theory before?

A. I don't know.

Q. Did anybody ever use it?

A. I don't know.

Q. Did anybody ever seriously discuss that theory with you?

A. I seriously discussed it here.

Q. That is not my question. You are a little too eager. Have you ever seriously discussed it with anybody until you came into this case?

A. No, I was just trying to answer the commission.

Mr. Turner: May I interrupt with a question or will it bother you.

Mr. Butler: No, no, nothing can make it worse. Go ahead.

Mr. Turner: Are you one of those that claim that depreciation does not start as long as you are willing to put down another well, the gas being there to justify the other well?

The Witness: I am.

Mr. Turner: And you are not alone in that theory?

The Witness: No.

Mr. Turner: That is what you mean in answering Mr. Butler?

The Witness: Yes, sir.

By Mr. Butler:

Q. Of course, you are not forgetting that only the drill determines whether there is gas or not?

A. That is right.

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[fol. 2248] Q. Does this brand new theory propounded by you to Mr. Turner, to which you give your assent, differ from the theory that you have been giving us or is it the same?

A. It is the same.

Q. It is the same?

A. Yes.

Mr. Butler: I don't know what I would do with another one.

Mr. Turner: All we have got to do is to get some more engineers, Jim.

Mr. Huffman: We can't remember their names now.

Mr. Butler: I am about to make some inquiries concerning the information I wanted him to get. It is pretty nearly adjourning time but I can go into that and probably save a few min*tue*s, or we can adjourn, whichever is desirable.

Q. Will you get the information concerning Section 3 in Washington Township which is a part of your 183?

A. You asked for the map showing the wells and the classification in one of the exhibits here, did you not?

Q. Yes, and I told you to investigate and see the conditions around there, because I wanted to ask you about your conceptions of acreage?

A. I am having that map colored just like the exhibit, that is in here. You want in addition to that, detailed information on each well? Am I understanding correctly?

Q. Possibly you will want it. The point is, I made a sort of a summary around of conditions, and it seemed to me that it was wholly unfair to begin to question you about it until you had made an examination. I think your idea of getting a map not only of that section, but of a proper

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[fol. 2249] amount of surrounding territory, showing wells and dry holes and abandoned wells—I think that will enable us very quickly to dispose of what I have in mind.

A. I am having that prepared.

Q. I think I shall not object to that matter. What was the purpose of 187?

A. I compiled Exhibit 187 to show what the result would be, using Mr. Blundon's figures as given in Exhibit 74, Page 9, to show the number of wells used in different fields as he designates them, and to show the same result that is indicated on our Exhibit Number 183. This is a composite figure, since all of the wells under discussion are used in Mr. Blundon's determination, and I have merely plotted the points that are given in his exhibit, City Exhibit No. 74.

Q. What does it show? You are an expert?

A. It shows the same results as the exhibits we have put in, 183, 192, 191, 189 and 190.

Q. Meaning thereby that there is no connection between depletion and decline in rock pressure?

A. Meaning thereby that there is no connection between depreciation and per cent decline in rock pressure.

Q. But not intending to mean and not meaning that there is no connection between depletion and decline in rock pressure?

A. No, not at all.

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[fol. 2250] By Mr. Butler:

Q. Mr. Pepperberg, Mr. Turner has handed me what has been marked for identification Company's Exhibit 193, consisting of two pages; are those the work sheets for one of your exhibits?

A. Yes.

Q. For which one?

A. 193 is the work sheet for Exhibit 189, Exhibit 190 and Exhibit 191. Exhibit 194 is the work sheet for Exhibit 192.

Q. Those are merely the photostats of what you had here the other day, these exhibits 193 and 194 are the photostats of what you had here the other day?

A. The photostats of the worksheets, yes, sir.

Q. That is what I mean, that you had here?

A. Yes, sir.

Q. In other words, the reason I ask, I find here on one of them, "Black pencil figures by Pepperberg, 11-11-31."

A. You asked the other day, Mr. Butler, why I had not extended the curve on Exhibit 192 for the same length of time to 1931 like I did on Exhibit 191, and I added those figures so that you would have the complete information so that you could extend that information on the curve if you wished, and I wish to explain that those two years were in another book, that the party that compiled the first work sheet did not use before it was turned over to my draftsmen.

Mr. Turner: And you put the rest of them on yourself?

The Witness: I put the rest of them on. You asked also about the dates wells were abandoned, and I put on the date and year abandoned where the date was available or the year was available.

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[fol. 2251] Q. Well then, you did add to it?

A. I just added the information you asked me to get, yes, sir.

Q. Who furnished you this information?

A. The gas depletion department.

Q. Well, what individual?

A. Mr. Cottingham, under his direction.

Q. It was done under his direction?

A. Yes, sir.

Q. Cottingham. By the way, Mr. Turner, I wish you would have your Mr. Roth come up, who made these exhibits showing the daily fluctuations in pressure; I want to examine him. Well then, as I understand you, because I can't stop to examine them now, these contain only the wells to which you referred the other day, no additional wells?

A. No additional wells.

Q. Have you some other information that you want to present this morning? You said you were going to work on a map and color it?

A. I have the map, yes, sir. You asked for the map of Section 3 in Washington Township, Holmes County.

Mr. Turner: Company Exhibit Number 195.

And thereupon the map above referred to was marked for the purpose of identification as Company Exhibit Number 195.

Q. Mr. Pepperberg, I have here a paper which for identification may be called City Exhibit Number 109.

And thereupon the paper writing last above referred to was marked for the purpose of identification as City Exhibit 5489

[fol. 2252] Number 109.

Mr. Turner: May we have a copy?

Mr. Butler: I only have this one and I am going to ask him whether from his records here, he can check whether these are correct or not.

Mr. Turner: May I see it before the answer?

Mr. Butler: Yes, certainly, before he says a thing. Then we can have it photostated, Mr. Turner.

Mr. Turner: Mr. Butler, as soon as you get through with Exhibit 145, we would like to use it. We haven't had it available for some months and we did need it on this thing.

Mr. Butler: When we get through with it, you mean, Ed?

Mr. Turner: We are in our rebuttal case. We would like to have it. We have asked for several of those exhibits that we would like to look at. We don't want to deprive you of them, of course, but we would like to use them.

Mr. Butler: Mr. Turner, what we can do to save time, that is the compilation that we have made and we can have that photostated and give you copies and then it can be checked and if there are any errors they can be corrected.

Mr. Turner: We were hoping to close pretty soon, you know.

Mr. Butler: Well, all right, let him check it.

(Question read.)

A. No, the record I put in on Exhibit 183 does not show the number of days the wells were in the line in the years, but Company Exhibit 145 does show that, and that is in 5490

[fol. 2253] the record, I could check it from that.

Mr. Turner: But you have our 145.

Q. What I mean is, not whether your special exhibit shows that, but whether those are the facts or not?

A. I would have to check it with the other exhibit.

Q. You will not lose that, will you, because that is the only copy, just made up a few minutes ago, and I will gladly leave it with you until you check it, but we will have to do it all over again if you lose it, Mr. Pepperberg. Now, I don't want to deprive you of the privilege of presenting anything else. I don't know of anything else I asked for. You haven't prepared anything, have you?

A. No. I prepared just what you asked for and you have it here.

Mr. Butler: This map, it will probably be necessary for me to examine it; that is, Company's Exhibit 195. Have you introduced that, Mr. Turner? May we make it an exhibit?

Mr. Turner: Why, I have no objections to your introducing it, Mr. Butler. We have identified it for you. You have asked for it as a part of the examination. It is, as a matter of fact, in the other exhibits already offered. We haven't any objection to your putting it in here if you want to.

Mr. Butler: Now, as I understand——
Mr. Turner: You offer it?
Mr. Butler: Oh, yes.
Mr. Turner: All right.
Commissioner Geiger: Admitted.

And thereupon the map above offered was introduced
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[fol. 2254] and admitted in evidence on behalf of the City of Columbus and is herewith submitted, marked Company Exhibit Number 195.

Q. As I understand, this shows the Section 3 in Washington Township, Holmes County, which was under consideration in your Exhibit, and also shows surrounding territory?
A. Yes.
Q. And in all of the section 3 and the surrounding territory, you give the wells and also whether they are abandoned or whether they were dry holes?
A. Yes.
Q. As you understand, that is a complete well history of that territory covered by the map?
A. That, together with the Exhibit that I mentioned a moment ago, is a complete well history. You have it all in 145.
Q. Well, to put it a little differently, this gives all the wells?
A. Shows the location, yes.
Q. And as far as it goes then, it gives the history of the development?
A. Yes.

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[fol. 2255] Q. All right. Mr. Pepperberg, the other day I was asking you about the principles enunciated by Mr. Davis, and in the confusion, the thing that I particularly wanted I couldn't find. It is on page 1630 of the testimony in that case and he was being cross-examined and these were the questions and answers, and I want to know whether you approve of his conclusions and answers.

"Question: Is there any connection between rock pressure and volume?
"A. Yes, sir.

"Question: Well, greater rock pressure doesn't always mean greater volume, does it?

"Answer: Not always.

"Question: Then there is no inevitable connection?

"Answer: There is an inevitable connection. When a well is new, and has high rock pressure, it has its highest open flow. When it is old and has a low rock pressure, its open flow is low and there is a relation, they go down together and it is inevitable."

A. Yes.

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[fol. 2256] T. R. WEYMOUTH further testified:

—. I want to direct your attention to the subject of depreciation of gas wells and of gas well construction and equipment, and if you will please start and give to the Commission your idea of how gas well construction and equipment should be depreciated, we will appreciate that.

A. First of all, I would like to explain what I mean by depreciation, to avoid the confusion which usually attends a discussion of that subject. I understand the term or shall use the term to express the condition of the equipment at the particular time spoken of; that is, it has nothing to do whatsoever with accounting depreciation, or amortization nor annual charges from revenue to depreciation accounts, but simply is used to express the condition and the present value of the property in question.

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[fol. 2257] Q. May I interrupt with a question there? Do I understand you then to recognize a difference between theoretical depreciation and actual depreciation?

A. Decidedly.

Q. I wish that you would elaborate that thought.

A. The condition of the property depends upon many factors and can be depreciated from various causes by decretion or obsolescence or inadequacy or any one of a number of causes, but the use of the term as I mean to use it here today expresses the decline in value of that property. Theoretical depreciation is usually used to express a form of setting up an amount of money which eventually will be used to replace the original value of the property in question. Annual depreciation charges from revenue go

into a depreciation account, which is an accounting method of considering depreciation. Amortization is frequently used in the same way. But there is a distinct difference between the actual condition of the property as depreciated and the annual charges that are made to revenue to provide for the repayment of that property, and it is that distinction which suggests my mentioning this matter now.

Q. Before you proceed further, may I ask you whether or not in your opinion, the book reserve for depreciation, the theoretical depreciation, should always be equal to the used up part of the property or the actual condition?

A. No, it should not, and it very seldom is coincident with it or equal to it.

Q. All right, go a little further on that, if you will, show whether depreciation travels in a straight line for a while

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[fol. 2258] and then breaks off or whether it travels in the same sort of a fall?

A. The actual condition of the property or its depreciated condition can be practically 100 per cent of its original condition throughout the whole life of the property, and then the property expire suddenly, and yet the accrual in a depreciation account to the place that property at the end of its life must be accumulated year by year from the revenues in order that at the end of the life of the property, a sufficient amount will have accumulated to effect the replacement or to pay back to the owners of the property the value which they originally put into it. In other words, in that case there is no depreciation until the very end of the life of the property, whereas the accounting depreciation or depreciation reserve is gradually accumulating from year to year and it becomes equal to the value of the property at the time that the property must be retired.

Commissioner Geiger: You made a statement that seems to me to require a little elaboration, that this depreciation reserve should be sufficient to replace the value of the property or to pay back the money that was put in the property. Now, those two things might be vastly different. There may have been a smaller sum of money put in and the property may have enhanced in value. Now, what is the correct rule as to depreciation reserve, to replace the money or to replace the property?

The Witness: I presume you are referring to its treatment in a rate case, are you, as the rate base?

Commissioner Geiger: I am referring to what you are talking about.

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[fol. 2259] The Witness: Well, I am now thinking of the value of the property as it will be contained in the basis for rates. That is a present value. In any particular class of property which does not depreciate with use, it will then be at a hundred per cent of its present value until the time comes in the future for its retirement. The depreciation reserve which is set up to replace the property or to pay it back must be such as to replace that particular value.

Commissioner Geiger: Well then, you weren't quite accurate in saying you would pay back the money originally invested?

The Witness: I think I said the value which was originally put in it, if you will ask the stenographer to read back.

Commissioner Geiger: All right.

The Witness: I had that distinctly in mind. In other words, I wouldn't say that original cost in a case of this kind is the thing that we must pay back. It must be the value of the property which would expire.

Q. Is time alone a function of depreciation?

A. No, it is not.

Q. Explain that, please.

A. Time, of course, is a function of depreciation because time is passing constantly and as property declines in value, it declines in value over a period of time, but time does not cause the depreciation. Property may enhance in value with time so that time is not a primary cause of depreciation.

Q. Well, while we might consider time when a function of depreciation, under some interpretations, would it be the measure of depreciation?

A. No, it will not.

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[fol. 2260] Q. Now, let's get specifically, if you please, to gas well depreciation, and I wonder if you are the Weymouth that Mr. Lerch mentioned here on the stand?

A. I presume I am, yes.

Q. Well, you tell us about this gas well depreciation.

A. You mean the original question, you asked me my idea of gas well depreciation?

Q. Yes, your idea, the proper method to depreciate the accounts, gas well construction and gas well equipment.

A. As to gas well construction, I consider the well, that is the hole in the ground, as one of the physical elements of the property and one of the necessary links in that property for the purpose of getting the gas from its original position in the sand to the consumer for its use. That hole is of precisely the same character as other physical elements of the property, and any depreciation that might be sustained——

Q. Well, do you mean by that, the same character, as if a pipe line continued on down there to the bottom of the well, something of that sort?

A. No, what I mean is, it is just as much a unit of physical property necessary for the transportation of this gas as the pipe line is or as a compressor is or as even the buildings are. It is a separate unit of the plant necessary for the conduct of this business.

The value of that hole is not in any sense related to the extent of the gas reserves in the ground. A hole costing a certain amount of money is, for the purposes of establishing a rate, valued at the present cost of drilling the hole. The value of that hole costing a fixed amount of money would be the same if there were twenty million cubic feet

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[fol. 2261] of gas per acre under the well in question or if there were five million cubic feet of gas per acre under the well. So that the value of the hole does not depend upon the reserve.

The value of the hole does not depend upon the rate at which the well will permit the flow of gas to the lines. A hole costing a fixed amount of money will be just as valuable in a well flowing one million cubic feet per day as it is in a well flowing twenty million cubic feet per day, and it doesn't change as that rate of flow changes.

Neither is the value of that hole dependent upon the rock pressure in the well. If the rock pressure is high in the beginning in one well and lower in another well, if the two wells cost the same amount of money, they will have the

same value for rate purposes. If one well exhibits a greater decline of rock pressure than the other well, the value in the hole does not change by that.

In other words, the only thing that could change the value of that hole is a change in its condition, either its physical condition or its functional condition, and as long as it is ascertained that neither of those conditions has changed, the value of the well has not changed.

Q. Then what you have said in respect of well construction applies equally to gas well equipment?

A. It does. The condition of the equipment determines the amount of depreciation sustained, just as the condition of the well hole determines the amount of depreciation sustained in it.

Q. I wish, if you could, at that point, illustrate by two wells of similar cost put in at about the same time, one having a large initial cost, another a smaller initial cost, one

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[fol. 2262] a high rock pressure, and another a low rock pressure?

A. If we take that as an illustration, two wells might be assumed to cost a fixed amount, let us say, $10,000.00 each, one of them in a field which will show a rock pressure of a thousand pounds, and have an open flow of a million cubic feet of gas per day, the other one having a rock pressure of 500 pounds and an open flow capacity of 500,000 cubic feet of gas per day, those wells will both be valued at their cost of construction, namely, $10,000.00 each.

Q. Is there any justification, in your opinion, for making the present value of one of them much less on account of the rock pressure?

A. No, there is not. To continue the illustration, if the thousand pound well having a million feet open flow should be drawn upon until its rock pressure has declined to 500 pounds and its open flow 500,000, which is the condition assumed for the comparative well, the value of the high pressure well would not have declined 50 per cent but would remain the same and be the same as the other well.

Q. Let me ask you to comment upon the wells shown in Company Exhibit 183, and particularly at this time 4009 and 4252 in connection with my previous question?

A. These two wells, 4009 and 4252 shown in Exhibit 183, are adjacent wells, drilled at what is called one location

apart. The initial rock pressure of 4009 was in the neighborhood of 1,120 pounds. The sheet attached to the exhibit shows that the pressure of that well had actually declined to 295 pounds in 1926. The pressure of well 4252 had declined to 223 pounds in the same year. If now these wells be taken at that point as the starting point and their condition at that time taken as the base, that is, their cost, it

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[fol. 2263] would appear that they are of the same value because their rock pressure is approximately the same and I believe the flow is about the same, although that isn't shown on the chart. Well, 4009, if it cost just as much or if its value referred to present day prices is just as much as well 4252, would have the same value in 1926 as well 4252 and would continue to have that same value until the time when it was necessary to abandon it, even though well 4009 is about five years older than well 4252, and has produced more gas.

Q. Will you comment on the theory often advanced that depreciation of gas well construction and equipment does not begin so long as it pays to put down another well in that field? If I don't state the thing correctly, you may recognize the claims that are made in respect thereof and make comment and tell what the correct theory is?

A. The depreciation of the well, as I have said, does not depend upon the decline in pressure nor in open flow nor upon the condition of the sand. It depends upon the condition of the well itself. If you say that it depends upon whether or not an operator would drill that well at a certain particular time, you then introduce an entirely different theory of depreciation which is more in the nature of market value theory.

Q. Some obsolescent theory in it, too, is there not?

A. Yes. The theory which I hold to is that the well continues its value except for observed depreciation up to the time it is to be abandoned.

Q. Well then, instead of using any pressure system to attempt to find the depreciation, you would insist upon observation?

A. Exactly.

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[fol. 2264] Cross-examination:

Q. We have been trying, Mr. Weymouth, for a long time to find out who, if anyone of the Columbia organization or of its subsidiary organizations, directed Ford, Bacon & Davis to change their methods or principles of depreciating gas wells here in The Ohio Fuel Gas Company. Do you plead guilty to that?

A. I am the man who finally convinced them of the error of their former method, but I did not direct them to do it. I can tell you the whole story if you like, how it happened.

Q. I am not shutting you off. You will have to use your judgment. I do not want to be in the position of keeping anything out.

A. When I came into the picture about a year ago, relating it briefly, and learned that it was intended to treat the

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[fol. 2265] depreciation question as it had been treated in the United Fuel Gas case, and when I learned that the question had been under discussion among the officers of the company before I came into it, I consulted with Mr. Turner and the other active men in the case and explained to them that I felt that the method that had been used in the United Fuel Gas was entirely unjust and would work an unwarranted hardship upon the Columbus Company, and The Ohio Fuel Company. We discussed it thoroughly. I explained the principles of depreciation to which I hold, and which I attempted to expound this morning. And they agreed with me that my theories were more logical and sounder than the ones expressed in the United Fuel case. Consequently I called a conference of the officials of the Ford, Bacon & Davis Company and went into the question thoroughly with them, presenting my arguments and reasons for the theory which I was proposing and against the theory which they had used before. And after considerable discussion of the subject and argument, they agreed with me also that they had made a mistake in the former method, and that the theory I was propounding was sounder and more logical. From that time on they prepared to present the case as they finally did present it.

Q. You knew they had already started on The Ohio Fuel Gas works, using the United methods?

A. I knew they contemplated using those methods, yes.
Q. Didn't you know that they had already started?
A. Yes.
Q. Using those methods?
A. Yes.
Q. Yes. Who were present in this conference where you
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[fol. 2266] say Mr. Turner was?
A. It was here at the hearing. I think Mr. Calland, Mr. Turner and Mr. Seyffert and Mr. Gerkin and other members of the company and Mr. Welker. I don't recall the others, but it was the various men in the company who had been engaged in the preparation of this case.
Q. I suppose not a single lawyer objected to your theory?
A. I don't recall that anybody objected.
Q. So you asked them to use your theory here?
A. Yes I did. I told them I thought it was a grave mistake to stick to the plan they had intended using.
Q. You have read their testimony and their exhibits with respect to depreciation in this case concerning Ohio Fuel Gas wells?
A. The Ford, Bacon & Davis testimony?
Q. Yes.
A. I don't know that I have read all of it. I have read some of it.
Q. Enough to satisfy you that you accept fully and unreservedly the methods that they have used here in Ohio?
A. I accept them so far as the deal with the gas well material. I think that they have unnecessarily depreciated the gas well construction.
Q. You didn't quite get it all over?
A. Didn't quite get it all over.
Q. Well, how old are you?
A. I am 56 years old.
Q. No danger of losing your job over there that you know of?
A. I hope not.
Q. Now, what part did you fail to get over? Wherein did they fail to come up to your presentation?
A. Simply in this, that they insisted that the gas well hole, gas well construction, should be depreciated on the
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[fol. 2267] same basis as the gas well equipment, the iron pipe in the hole, and I felt that the hole should not be depreciated, as I explained this morning, that it should be considered on its own merits, according to the condition in which they found it. And they did not agree with me. So they went ahead and put it in in their own way.

Q. What method are you and they using over in the Wheeling case now, the new case, with the United in West Virginia?

A. I don't know. The question has not been discussed as yet, but if I have my way, the same method will be used as is used here.

Q. If you have your way?

A. If I have my way.

Q. The same way you have testified to?

A. Yes.

Q. Not the method that they have used in Ohio?

A. If I can persuade them to do so, they will use my method.

Q. In other words, you have no present intention of giving up the fight?

A. No, it is a question of adhering to it. If I cannot win, all right.

Q. You are going to stay by those holes?

A. Yes, sir.

Q. Who were present in that conference with Ford, Bacon & Davis in New York?

A. In New York.

Q. Yes.

A. Mr. Towers, who was the head of their appraisal department, Mr. E. G. Hill, I think Mr. Antonelli was present there at that.

Q. Oh, Antonelli?

A. Yes. I am quite sure that he was present there, and either at that conference or at another conference I had with them, Mr. Emery was present. I discussed the matter, at least, with Mr. Emery. So that there were those four men that I remember who were present, and then in

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[fol. 2268] our own company with Mr. Gerkin, Mr. Winans, Mr. DeMay—a number of our men that we considered on our rate committee.

Q. I am rather assuming that no one of your company would say that they disagreed with you?

A. Nobody disagreed with me except the Ford, Bacon & Davis people.

Q. Antonelli was a little bit hard to convince, wasn't he?

A. Yes, he was.

Q. Well whatever we may conclude about the propriety of your theory and your method, the fact is that it does, both in the United case in West Virginia and in this case in Ohio, work out more favorably for the company than the method used by Ford, Bacon & Davis in West Virginia, and which they started to do here?

A. That is true.

Q. How much more favorable? As an engineer, can you sort of sum it up in some expression or some formula that will express the difference?

A. No. I don't know because I don't know what it would have resulted in by the United method, and so I cannot make any comparison except that I am convinced that it would have been much more unfavorable to the company by the United Fuel method.

Q. As I remember, Mr. Weymouth, when we so happily met five or six years ago, you had ideas of depreciation that were a little different from what, shall I say, the current ones are? Didn't you hold somewhat to the position that property should go into the rate base at cost new without depreciation?

A. Yes, I did.

Q. Do you still hold that theory?

A. I think, as a matter of principle it should, yes, sir.

Q. You mean you have just yielded to the courts?

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[fol. 2269] A. That is virtually the case, yes.

Q. Don't you think that colors you occasionally now, when you come to depreciation? Don't it have some relation to your ideas about these holes?

A. No. If I understand your question, I don't think it does. I try to face facts where we are confronted by facts instead of theory.

Q. What is, on principle now, what is your theory about depreciation as applied to valuations in a rate case? Just state that so that we can get started.

A. I feel that if the company possesses property that has a certain definite value as determined by reproduction cost new, which is supposed to represent the amount of money which a company would have been able to invest

in this property, had the value of the dollar been the same throughout the past years as it is now, that the return rate they should be permitted to earn should be based upon the total value of their property until they are repaid for that property, for the reason that the property is still used and useful for the benefit of the public, and the public should pay a full return upon the full value of the property unless it should have been paid back to them, and as long as it is used for the benefit of the public.

Q. And in principle you have never changed your own personal view?

A. No, I think that they should be permitted to earn to that extent.

Q. How do you understand that Ford, Bacon & Davis depreciated the gas wells here?

A. I understand that they depreciated the gas well equipment by observing the condition of the pipe that had been taken from the wells, and from those observations deter-

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[fol. 2270] mining the condition of the gas well pipe and equipment, and that then they claimed the hole in the well was an integral part of the equipment, that is, the well itself consisted of the hole and equipment, and the two were of like character, and that, since they depreciated the pipe according to its physical condition, they would have to say that the hole had depreciated to a corresponding extent, even though there might not have been any physical decay or decretion.

Q. What is that last?

A. Physical decay or decretion.

Q. Now, the only criticism of Ford, Bacon & Davis that you have is not with their depreciation of the equipment, but with the fact that they gave any depreciation to the hole?

A. Well, I am not criticizing it at all. I want them to use a logical and sound method of depreciation for both hole and equipment. They are the people who are responsible for the establishment of the value of this property, and, inasmuch as they hold to the theory that they have expressed here, I am not criticizing them for it.

Q. I quite understand your answer, I think, and no doubt I quite deserve it. But I did not use criticize in the sense of personal criticism. What I meant to put to you was this, that you agree with their method of depreciation of

construction and would have no disagreement if they had given no depreciation of the hole; am I right about that?

A. Yes, to this extent, that I do not insist that I am a hundred per cent right in everything, of course, and I claim that even though I think that the company should be permitted to earn a fair return upon the full value of its prop-

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[fol. 2271] erty, if the weight of opinion is against me in that, I see there is just as much chance of their being right as I am.

Q. You don't quite mean that, do you? I want to do justice to you. You feel very deeply that you are right about your testimony in respect to the depreciation of the hole, don't you?

A. Yes, sir, decidedly.

Q. You are very sure about that?

A. Yes.

Q. Now, suppose there is no depreciation of the well equipment in the wells here and you are called upon to do it, using your best judgment, what you believe it, how would you do it?

A. I would, first of all, set up my ideas as to the correct method of depreciation of the equipment. I am now talking of the equipment.

Q. Yes, go ahead.

A. And then I would present the figures which would result from the application of the observed depreciation principle, so that if the Commission and the courts should not agree with my original theory, they would have my judgment as to the figures to be used by the observed depreciation. They could take their choice.

Q. What about the well itself? Do you distinguish between the well and well equipment?

A. Yes, I have made a distinction here between the well hole and the pipe and tubing in the well, and when I talk about the well equipment, I am talking about that pipe; but the hole, itself, which means the drilling construction expense or cost, that is the element of property for the link in the chain to which I testified this morning, about which I testified this morning, and which I stated, according to the observed method of depreciation, by the method of depreciation by observation, even applying that method, it

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[fol. 2272] would remain at a hundred per cent throughout it's life, because there is no evidence that the hole, itself, has deteriorated in any way, either functionally or physically.

Q. Well, do I state you correctly, if you were appraising and depreciating the well equipment and the well construction, if you found the facts as Ford, Bacon & Davis did, you would depreciate the well equipment as they did, the observed depreciation; you would use the same method?

A. Yes.

(Question read.)

A. I probably would but I also probably would explain that I felt that that was more than should be charged against the company.

Q. I am trying to get at it.

A. So as to maintain, as I tried to explain, the principle I expressed before, that we ought to be permitted to earn on the full value of our property. But if the court insists that is not a correct principle, and I am all wet on the subject, then I am willing to present the evidence to give them the foundation of facts according to my judgment as to the use of the depreciation theory which they do hold to, which I take to be this method of observation.

Q. If you were making the appraisement and depreciation of the gas wells and gas equipment, you would not put the gas equipment in before this Commission at 100 per cent, would you?

A. Probably not. I would put in the depreciated value.

Q. Aren't you clear that you would not put it in at a hundred per cent?

A. Oh, I would give them the figures of the 100 per cent value, and then also give them the figures of this depreciated value.

Q. And tell them they ought to accept the 100 per cent?

A. In all probability I would, yes.

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[fol. 2273] Q. But in any event the well construction in any exhibit you would put in for your company, for these companies, would not be depreciated?

A. That is correct.

Q. Mr. Weymouth, what relation is there between the observed depreciation of the physical equipment and the

well? Do you really now—putting two questions into one, you see—do you really as an engineer, a scientific man, believe that there is any just or honest relation between the observed depreciation of the well equipment and the well itself?

A. That depends upon how I would regard it. If I were regarding it as the well, the hole and the equipment, as one unit, I should say then that they both should be depreciated on the basis of the observed depreciation of the equipment. But if I regard it as I have tried to outline it in my theory, as two separate units of property, one the well hole and the other certain pieces of pipe, then I should say that the pipe should be depreciated on the basis of its observed depreciation and the well hole on the basis of its observed depreciation. You know I am trying to be consistent and adhere to this observed depreciation theory throughout—the pipe as well as the hole.

Q. Yes, but I am very much interested in knowing whether back in your mind as an engineer, with your scientific training during the years, you look with any favor upon the theory that gives to the well the same depreciation as the observed depreciation of the materials in the well?

A. My own theory does not contemplate that. It does not give the same depreciation to it. But, as I say, when you consider them as a unit, it would be, it would have to be.

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[fol. 2274] Q. But you don't consider them as a unit, do you?

A. No, not according to my theory.

Q. And when you divide them into two units, isn't it perfectly ridiculous to fix an observed depreciation on the well equipment and then give that to the well or to the construction?

A. I don't know as I would use the word, "ridiculous," but I would not think it would be consistent, no.

Q. You may use a softer word, of course. Let me again put this matter to you. Here is a gas well. I want to determine its value in a rate case, we will say. Now, you would hold that gas well construction at the reproduction cost new until it absolutely went out of use?

A. Correct.

Q. Upon what theory do you justify that? Is it due to this other theory of yours—and I am not critical, not in

the sense that you may think, but I am trying to get at it —is that due to this other theory of yours that property should be held at reproduction new in a rate base without depreciation, and that whenever you can—and I again use it fairly—whenever you can slip in a matter like this, you do it?

A. No, you are quite wrong in that. It is due, entirely, to the application of the same theory of depreciation which has been used in depreciating the other physical property, that is, by observation. I say that the observed condition of the well hole itself indicates a practically 100 per cent condition, and that, applying the same theory that you applied in the physical property, it comes to that result. It so happens that it coincides with the theory that there should be no depreciation at all.

Q. You think those are pure accidents?

A. Purely coincidents.

Q. Coincidents, and not with design?

A. Yes.

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[fol. 2275] Q. When you speak of the hole, as long as the hole is in the same physical condition, what do you mean by that? I may not give your exact words, and probably do not, but I am getting the thought to you.

A. I mean that the physical condition of that hole has not changed appreciably. I mean that it is still gas tight. There is no evidence of decay. It still is as efficient as ever and as effective as ever in its ability to offer a passage for the gas from the sand to the pipes above, and that it is in every way, both physically and functionally, in the same condition as it was when drilled.

Q. Well, it is very often in that same physical condition when the gas stops?

A. Yes, but then it——

Q. When you abandon it?

A. Yes, but then it is obsolete. It dies by obsolescence.

Q. Do you mean to tell this Commission, Mr. Weymouth, that as an engineer you close your eyes to the fact that wells are born, and live and die?

A. Not at all. No, that is not inconsistent with this theory.

Q. Hasn't age something to do with wells?

A. Only insofar as it takes time to exhaust the gas well so that the well will have no further use and then be ren-

dered obsolete, but age in itself has nothing to do with it.

Q. Do you know what the average of wells or of the life of wells has been in this company?

A. In this company?

Q. Yes.

A. I can't say. I heard it mentioned, but I wouldn't remember it.

Q. That wouldn't interest you at all?

A. No, just so long as the well is all right to get the gas out of the ground, it is all right.

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[fol. 2276] Q. Is that science or just obstinacy?

A. No, Mr. Butler, that is just common sense.

Q. And if you were reasonably certain that a group of wells, a territory, would go out this year, be abandoned, you would still put that well construction at the hundred per cent?

A. Yes, as long as the well was still necessary to get the gas out of the ground. It's value is still there and it has not been repaid or replaced.

Q. Would you follow that same method in acquiring gas leases with gas wells on them for your company?

A. You mean if I were buying a lease with a well on it, would I pay the value of that well?

Q. Well, would you consider it just as valuable if it were 15 or 20 years old as if it were one year old?

A. In all probability, yes, I would; if I was willing to buy that lease with the gas that was under it and needed a well I would pay the full value of the well. It has been done. It is done every day in the oil and gas practice.

Q. Oh, I know. Murder is committed every day. But that doesn't justify it. You mean to say now, if you were going out to buy for this company a tract of developed gas land, you would not inquire into the ages of those wells?

A. Not for this purpose, I certainly would not.

Q. I am talking about purchase now. I want to see what——

A. I mean for that purpose, in other words, to determine its condition, the well's condition. Is that what you mean?

Q. Don't you recognize, in common parlance, that certain gas lands are almost exhausted?

A. Yes.

Q. Do you mean to tell this Commission that if you were

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[fol. 2277] acquiring them for your company, you would pay as much for land that is not nearly exhausted as for land that is nearly exhausted?

A. Now, you were talking about the purchases of leases. I probably wouldn't buy such territory.

Q. That is what we have been talking about.

A. No, we are talking about the wells, the well holes.

Q. Well, if it makes no difference, why wouldn't you buy it?

A. If I were willing to buy that territory that has gas under it, and I had to drill a well because there was none there, it would cost me just as much.

Q. I am talking about fields that are developed with wells that are drilled.

A. Are you talking about the value of gas lands or the value of a well hole? I have been talking about a well hole all of this time.

Q. I am putting a question to you that embraces the land and the wells. I am pointing out to you a piece of property that has been developed with operating wells, and we will assume that you, as an engineer, think that no more wells ought to be driven on it. I suppose I could term it sufficiently developed. Now, you go out to buy for your company, or suppose I want to buy it, and because I like you, I send you out to make some report to me, would you seek to find out whether that field is nearing depletion or in what state of depletion it is?

A. Decidedly I would.

Q. Why?

A. Because we would not buy gas reserves without knowing what gas reserves were there or without some idea of it.

Q. Do leases depreciate?

A. Certainly.

Q. What method of depreciation——

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[fol. 2278] A. They don't depreciate. They deplete when drawn upon.

Q. Depletion is converted into depreciation?

A. No, depletion is the withdrawal of the wasting asset.

Q. They become worthless?

A. Yes, with depletion.

Q. Through depletion?

A. Yes.

Q. And you determine that on the depletion method?

A. Well, you say the depletion method. I am not quite sure what you want.

Q. Well, a depletion method?

A. Yes, you determine it on a depletion method, which gives you an idea of the extent of the remaining reserves, because that is all you are interested in.

Q. How do you work out a depletion method in a territory where it has been developed or partially developed?

A. You secure the complete history of the performance of the wells that have been producing gas in that territory, and then, by computations such as were mentioned by Mr. Pepperberg this morning, you arrive at an estimate of the gas reserves which remain in the sands. You base your judgment of the value of the territory on those reserves.

Q. Do you consider how much gas has been taken out?

A. Yes, we consider that.

Q. Do you consider the initial rock pressure?

A. Yes, sir.

Q. Do you consider the present rock pressure?

A. Yes, sir, and all of the rock pressures in between.

Q. In other words, the chart—do you call that a graph?

A. The decline curve of the rock pressures.

Q. Well, I guess you could call that a graph?

A. Yes, but what I mean to say by that is you do not take

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[fol. 2279] the initial pressure and the present pressure. You want to know the shape of that curve, which is not a straight line. You take all of that into account.

Q. Any other factor?

A. Every factor that is available you take into account.

Q. I know, but I want to know if any other factors are taken into consideration?

A. If we have information as to the porosity of the sand, as to the depth of the sand as to the presence or absence of water in the sand, all those things go into the formation of your judgment as to the extent of the reserves. It is a highly technical problem that has to be worked out individually in each particular case.

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[fol. 2280] Q. Mr. Weyworth, what kind of an engineer are you? I don't mean good or bad; I will accept you as a good engineer. But in respect to the utility business, how do you classify yourself?

A. Well, I suppose I should say I am a natural gas engineer. I was graduated as an electrical engineer and then had six year's experience in electrical and hydraulic engineering and then went into the oil and gas fields in 1903 and devoted myself more to mechanical engineering as found in oil and natural gas work.

Q. Could you call yourself a petroleum and gas engineer, would that be a proper appellation?

A. I would prefer to say gas engineer.

Q. You know Ralph E. Davis?

A. Yes.

Q. Who was the United's witness down in West Virginia?

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[fol. 2281] Is he an engineer of some considerable standing and repute?

A. Yes.

Q. This Mr. Lerch who has done so much work for your Columbia system, belonging to the Ford, Bacon & Davis organization, is he an engineer of standing?

A. He is as far as I know. I have not been acquainted with Mr. Lerch for any length of time, but his reputation is very good as far as I have heard.

Q. Mr. Weymouth, when did you first learn how they had depreciated gas well constructions in the United Case?

A. I first learned of it when I came with the Company a year ago.

Q. You didn't come to the company until a year ago?

A. No. November 1st, 1930.

Q. Well, you had worked for them before?

A. No, I had not—oh, I had testified in this case five or six years ago.

Q. Yes.

A. Merely as an accommodation.

Q. Yes. Well, when did you first take up with them the matter of changing the method of well construction depreciation?

A. I think it was in the month of November that I was first brought into the conferences in connection with this rate case.

Q. Well, do you mean to say that up to that time they were pursuing, that is, Ford, Bacon & Davis were pursuing the same method that they had followed in the United Case in respect to gas well construction?

A. I presume they were, because they contemplated using that method in this case.

Q. Of course, I understand, and if I repeat that, don't think I am critical, I understand what your own best judgment is; but, yielding to the course that gas well construc-

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[fol. 2282] tion is to be depreciated, how would you do it?

A. I would do it by the observed method, by the method which Ford, Bacon & Davis have used.

Q. Well, I am not talking about equipment, but the gas well construction.

A. Oh, the gas well construction, pardon me. I was referring to the equipment.

Q. Yes.

A. I would do it by the observation method, which is the one I attempted to outline the other day.

Q. You know, that is puzzling me a little bit. What is the observation method applied to a hole in the ground?

A. It is the determination of the physical condition of that hole by observations upon the performance of the well.

Q. You think that is about as fair an explanation as you could make of it?

A. I think that is as accurate as I can state it.

Q. And would you finally accept the method employed by Ford, Bacon & Davis to depreciate the mechanical equipment or the well equipment and then give the same depreciation to the well construction cost?

A. You mean give the same depreciation that they did to the equipment?

Q. Yes, carry it over?

A. Carry it over. I would on their theory, yes.

Q. I am talking about your theory. You are asked to depreciate that well construction, because, in other words, I want to be fair with you, we touched it the other day, you are an engineer for whom I have respect for the intellectual side of your profession. Now, I want you to tell me, because you probably could do it better than anybody living, just how you find a proper connection between the observed

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[fol. 2283] depreciation of the mechanical equipment and the depreciation of the gas well construction?

A. If the gas well is regarded in the same light as the pipe line system in the ground, then the depreciation of the whole well would be determined by the condition of the pipe in the ground. In explanation of that, when a pipe is laid in the ground, a ditch is dug, the pipe is placed in the ditch and the ditch is then filled and becomes a part of the pipe line system. In other words, the ditch was a constructional device developed for the purpose of getting the pipe into its permanent place. That is the theory on which Ford, Bacon & Davis have depreciated this property. They considered the pipe in the well and the hole as one item of property, a gas well, in which the hole was simply the element of construction which was necessary in order to get the well pipe in place.

On the theory I have tried to express here, I consider that in the case of a pipe line the ditch is simply, as I said, a constructional feature which is destroyed after the pipe is once in place and after the work is completed you have no ditch, you have nothing but a pipe in the ground. In the case of a well, you drill the hole and the hole remains as a hole separate and distinct from the pipe, whether there is any pipe there or not, and is therefore a separate unit of property and does not decline or vary in value except as its condition changes.

Q. Well, really your whole scientific point of view is in revolt against that method of depreciating gas well construction, isn't it?

A. Against which method?

Q. The Ford, Bacon & Davis.

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[fol. 2284] A. I wouldn't say it was in revolt. I say that I think the other method is the fairer method?

Q. How do you depreciate the gas well equipment, how is that done, what do you mean, observation there?

A. By determination of its physical condition of the deferred maintenance that is necessary to put it in shape to run it, bring it back to full value.

Q. That is an expression of the formula, I quite recognize that, but how do you apply the formula?

A. I don't know that there is any particular formula that you can apply to it. The property is examined by a man who has had experience in dealing with problems of that nature and whose judgment has been developed to the

point where he can give a reasonable estimate of the present condition of the property. It is a matter of the judgment of an experienced man more than the application of a mathematical formula.

Q. Well, most of the pipe is in the ground. Even an experienced man would have some difficulty in looking at it, wouldn't he?

A. You are speaking of the well now?

Q. Yes.

A. Well, yes, it is true.

Q. How does he go about that? Here is an immense amount of pipe or casing or whatever you call it.

A. He examines a sufficient number of samples of that pipe to fairly represent the condition of the whole system.

Q. You mean wells that have gone out, and the pipes, casing have been drawn out?

A. In the case of well-pipe, the pipe, which has come out of the well is examined, except insofar as you can examine pipe which is in wells at the top of the well, but to determine the condition of the bulk of the pipe within the well,

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[fol. 2285] it is necessary to examine the pipe which has been taken out.

Q. Exactly, yes. You wouldn't think, if you had a three or four thousand foot well, you wouldn't think much of the inspection method that looked at the top, what you could see, would you, you wouldn't give that a very heavy weight, would you, in reaching a conclusion?

A. Naturally, no.

Q. So you do rely, don't you, very largely, and naturally and inevitably upon the pipes and casing that have been withdrawn from the ground?

A. Yes, you do.

Q. Well, now, how did you do that, do you take into consideration the age of a pipe that has been withdrawn?

A. No, you——

Q. Makes no difference?

A. Not a bit. You examine all of the pipe that has been taken out of the wells to determine the percentage condition of that pipe. You then give consideration to the fact that the pipe which has been taken out of the wells is in the poorest condition of all of the pipe that has been in the wells.

Q. Why the poorest condition?

A. Because usually it is the pipe that has been subjected to corrosive action more than the pipe that is in.

Q. Why more than the other?

A. Simply because it has been taken from the abandoned wells, the ones that have outlived their usefulness.

Q. Why does the abandoned well show more corrosion than any other well?

A. Because they have been subjected to corrosive action to a longer time.

Q. That is it exactly, you just can't, you utility experts 5399
[fol. 2286] just can hardly bring yourselves, can you, to mention time in connection with depreciation, Mr. Weymouth?

A. I believe I explained that the last time I was on the stand that, that time is necessary for these corrosive effects to take place, and that is the sense in which time has any influence on depreciation.

Q. Mr. Weymouth, if you are trying to determine the depreciation of a lot of this pipe in the ground, you would look at what had come out and you would want to know how long they had been in and where they had been in, wouldn't you?

A. Not to determine its condition. I would want to know that as a matter of the general history of the company. But, on the other hand I think in the case in which I testified here before, we had samples of pipe that were taken from the ground where the pipe had been in varying length of time and pipe which had been in the longest time was in the best condition in many cases, whereas pipe that had been in the shortest time was in the worst condition.

Q. Oh, yes, Mr. Weymouth, of course, nobody disputes that, but what did you mean a while ago when reluctantly you came to the point where you said——

Mr. Turner: Objection.

Q. (Continuing:) That you had considered the time that they had been in the ground.

Mr. Turner: Just a minute now, we object to the statement of counsel, characterization of this answer. It is unfair, unwarranted.

Commissioner Bricker: I think it is proper cross-examination.

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[fol. 2287] Mr. Turner: Note exception. Not justified by the way the witness is answering at all.

The Witness: Will you please read the question?

(Question read.)

Commissioner Bricker: He doesn't say a reluctant witness. He just means he was long coming to that conclusion. There is no inference there.

Mr. Turner: All right. So the Commission understands it, I am satisfied.

The Witness: I am very glad to express my views frankly on the subject. As I tried to convey before, the question of deterioration of pipe in the ground requires certain amount of time, but that time is absolutely no measure of the deterioration. You could put pipe in sulphuric acid, dip it in and leave it in for a few seconds, and take it out, it would not affect the condition of the pipe whatsoever; but you put pipe in the ground and leave it for ten years in a very weak acid solution and it would eat the pipe through. The element of time simply gives an opportunity for the corrosive effects to take place, that is all, but is in no sense a measure of the extent of that corrosion.

Q. Mr. Weymouth, suppose you have a well here, something happens, it is abandoned, you draw out your pipes, say within a year; over here you have drawn pipes from a well that has been in service for thirty years. Now, do you mean to say when you consider those samples that it makes no difference to you that the one was in a year and the other in thirty years?

A. I mean to say precisely that; I mean to say that by observing the condition of all the pipe that has been taken

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[fol. 2288] out of the well, I know that I am then examining the pipe which is on the most conservative basis, that is, which is taking the maximum amount of depreciation from the pipe which remains in the well that could justifiably be asked. In other words, I know that the pipe that is remaining in the wells is in better condition than that indicated by the pipe that has been taken out.

Q. It wouldn't be better than this one year?

A. It might be.

Q. Oh, it might be. Now, do you mean to say to this commission that it would reasonably be?

A. Well, I don't take the pipe that has been in one year as the sole representative of the condition of the pipe in the wells. That is one of the pieces that has been examined, it is averaged up with all the others that have been taken out.

Q. Well, how do you know that you will get a fair average unless you know the ages of the samples that have been submitted to you?

A. I don't have to know the age, all I am examining is their condition.

Q. Well, how do you know that they are representative? You say here that you average up. Here is one that is very young and very good and there is one that is very old and very bad, we will say. You say they average up, but suppose you are given a number of the young samples, and not given enough of the old samples, do you mean to say to the Commission that that doesn't change your point of view?

A. The law of chances would give you a fair average of the condition of the pipe.

Q. I think that is about it, I agree with you, the law of

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[fol. 2289] chance.

Mr. Turner: And all engineers recognize it, including your own.

Mr. Butler: All engineers recognize the law of chance until we, until a poor city begins to approximate.

Mr. Turner: All engineers recognize the law of averages; all mathematicians do too.

The Witness: I should have said the law of averages instead of law of chance.

Mr. Butler: I am not the mathematician on our side of the table; I don't know.

Mr. Weymouth, according to your theory of gas well construction costs, how do you work out a proper annual charge for depreciation?

A. The annual charge for depreciation must be fixed at the point which will permit the accumulation of a sufficient

amount of money to pay for the replacement of the wells as they are abandoned.

Q. I know the formula, but the commission labor under the misfortune of having to deal with figures and not with a mere formula; and they have to translate it into dollars and cents or into per cents. Now, what method do you follow to get the per cent., to get the dollars?

A. The experience of the company in making its replacements is the only guide to that.

Q. In other words, take the past history of the wells?

A. Yes.

Q. See how many have gone out, see what their average age is?

A. Yes, you take the past history of the wells, yes, that is right, you have to take the length of time that a well will

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[fol. 2290] last in order to determine how much money must be accumulated each year to pay the amount back at the end of that time.

Q. Quite so. Now, we are beginning to be practical. But how do you determine how long the well will last?

A. As a practical matter, the depreciation reserve which is set up for retiring the cost of well construction and wells is not segregated from the accounts which are set up for the rest of the property.

Q. Aren't you wandering a little bit?

A. Not a bit, I am covering exactly what is happening in the business.

Q. I am not asking you what is happening, I am asking you to translate it to per cents, and dollars and cents for this Commission, a proper depreciation for the gas well construction.

Mr. Turner: I thought you asked him how it was done.

Mr. Butler: Well——

Mr. Turner: Well, now, the record will show which is right. He was answering you as you asked him.

Mr. Butler: All right, Mr. Turner, I can't handle you both.

(Record read.)

The Witness: If you are asking me a hypothetical question of how you would arrive at a per cent, to amortize the

The Witness: For Ohio it is a guess; it can be done in some cases.

Commissioner Geiger: Well, is it a good guess or a bad guess? Is it a reasonably accurate guess or a wild guess?

The Witness: In this particular case?

Commissioner Geiger: Yes.

The Witness: I would say it would be a wild guess.

Commissioner Geiger: All right.

The Witness: I have not guessed.

Commissioner Geiger: You are going to develop from him what he says is the right way to allocate?

Mr. Turner: Right away.

By Mr. Turner:

Q. What is the right way to allocate——

Mr. Turner: I thought he answered Your Honor.

Q. What is the right way to allocate in this case?

A. The right way to allocate, in my opinion, is on a basis of total sales to sales in each of the different communities.

Q. That is, you take the sales for the year in the communities and divide them into the total sales of The Ohio Fuel Gas Company for the year?

A. That is right.

Commissioner Geiger: You would mean by that necessarily, as I understand it, that you would regard the Ohio consuming territory as a unit and not attempt to vary the price of gas at each gateway dependent upon the number

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[fol. 2826] of miles the gas travels?

The Witness: You cannot vary it that way.

Commissioner Geiger: Well, would that result in fixing a fairly uniform gate rate for all communities in Ohio?

The Witness: Yes, sir.

Commissioner Geiger: Well, now as to the production end of it, a great deal of gas is produced in Ohio; would it also be fair to say that the gas flows from different points of production in Ohio to different points of consumption and that you may take into your calculations the amount of gas produced anywhere it may be produced in Ohio and conducted to points of consumption, so that you may use your apparently simple method?

The Witness: I think it is fair to allocate your production system on the same basis, yes, sir—if that answers you.

By Mr. Turner:

Q. Could you divide the State up into several different districts?

A. For operating purposes?

Q. For operating and to get a rate; do the operating conditions of The Ohio Fuel Gas Company admit of getting different rates throughout the State of Ohio in different localities?

A. In my opinion, no.

Q. And just tell your reasons for that?

A. Well, the system is so interconnected in operation and your gases are so intermingled you cannot tell today where you are going to get your gases from tomorrow. Your operating conditions are varying from day to day.

Q. Does the method of The Ohio Fuel Gas Company's operation make for efficiency and continuity of service?

A. It does.

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[fol. 2827] Commissioner Geiger: Let me ask just one question there; you have certain territory in the State of Ohio which produces gas, but manifestly it does not produce gas in proportion to the acreage because some have wells that produce an abundance of gas and some produce a smaller amount of gas. Now, in ascertaining the correct allocation, would you consider the productivity of the gas wells located in different sections of the State of Ohio as against the amount of gas that comes in from West Virginia and Kentucky?

The Witness: No, sir, I would not.

Commissioner Geiger: Well, then as an ultimate result you would regard the entire productive field, whether it be in Ohio, West Virginia or Kentucky, as a unit of production, out of which the gas comes?

The Witness: As I understand, there is no production so far as valuation is concerned except in Ohio in this case.

Commissioner Geiger: Well, I think maybe you are mistaken on that.

The Witness: I may be, but that is my understanding. Gas comes from outside which is purchased but so far as

wells are concerned it is my understanding that the wells are in the state.

Commissioner Geiger: Well, I think our investigation might involve the question as to the price at which it is purchased, whether it is purchased at a fair price.

The Witness: If I may go to your other question, it would not make any particular difference even though some of your wells might be outside of the State because they are put in as part of the system as a whole, and that

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[fol. 2828] is the only way you can, in fairness, as I see it, consider the problem.

Commissioner Geiger: Well, it is quite manifest to me on a general first view of it, that if you have a territory that produces gas which is in Ohio, West Virginia and Kentucky, that if you are going to allocate the cost of producing that gas you must in a measure or in some degree ascertain which of these territories produces the larger flow of gas; you may have 1,000 wells in Ohio that might not produce as much as 10 wells in West Virginia.

The Witness: That is possible, that you may have your production that way, but it is impracticable to go back and allocate your investment on your production figures; you must consider the thing as a whole unless you go into such a mass of figures that you get nowhere.

Commissioner Geiger: Well, if I may use this illustration, you would regard it much like a municipal street car line that has branches extending various distances from the center of the city, and everybody pays a fixed fare on that railroad, irrespective of the number of miles they travel; you would regard it as an entity; and it does not make any difference whether gas flows 100 miles or 20 miles, you regard the whole thing as coming into the general productive system out of which the gas is drawn?

The Witness: That is right, and if you don't do that you make different rates for people on one side of Columbus and different rates for people on the other side of the same city.

Commissioner Geiger: That is true; you might say with the distribution system in the City of Columbus, one person

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[fol. 2829] draws his gas from a pipe within 100 feet of the gateway and another one draws it ten miles from the

gateway, and yet it would be impractical to charge one one rate and another another rate; is that the theory you wish to advance?

The Witness: Yes, sir.

Commissioner Geiger: All right.

By Mr. Turner:

Q. Mr. Carter, have you figured out a proper percentage of the property of The Ohio Fuel Gas Company to allocate to Columbus to determine a fair price for gas at the city gate?

A. I have.

Q. Please give it.

A. The percentage is 17.32 minus, or if you care to carry it out——

Q. Carry it out.

A. It is 17.318745 per cent.

Commissioner Geiger: 17 what?

The Witness: 17.318745, if you care to carry it out.

Q. Now would you apply that percentage to the property of The Ohio Fuel Gas Company or to the operating expenses or to both?

A. To both.

Q. How is that percentage determined?

A. That is determined from a study of the total gas sales for the year 1929 and the gas sales for Columbus for 1929 and finding the relation of the Columbus sales to the total sales.

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[fol. 2830] Commissioner Geiger: Now, the matter that has been puzzling me and possibly some other members of the Commission is whether or not by your method of allocation a different gate rate might arise from the fact that one city consumes a different number of cubic feet of gas from some other city, would the consumption or would a varying consumption in several cities affect their gate rate price?

The Witness: The consumption would not because the percentage that the consumption, each individual city

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[fol. 2831] would vary, but since the constant factor for the consumption and for the operating expense, the rate would be the same irrespective of the consumption.

Commissioner Geiger: Now, assume just for the purpose of illustration that we have in contemplation Columbus, which we will assume consumes nine million thousand cubic feet, I think that is right——

The Witness: That is right, nine million plus, yes, sir.

Commissioner Geiger: And assume that there is another city, say Springfield, that consumes four and a half million thousand cubic feet, now, how would that affect the gate rate of those two cities, one consuming twice as much gas as the other.

The Witness: It would not affect the gateway rates. It would affect the percentage of the total property and the percentage of the total expenses to charge to that particular one, but since you take a lesser or a greater portion of the property and a correspondingly same per cent of operating expenses, your rate comes out the same place, so it would have no effect on your gateway rate.

Q. The retail rate, however, is not involved in what you are talking about, the retail rate in the city of Springfield or the City of Columbus?

A. Oh, no, it is the gateway rate only.

Chairman Hopple: Well, assume that upon your method of allocation, that the gate rate price of Columbus was 25 cents, what would be the gate rate price of Bowling Green or Springfield?

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[fol. 2832] The Witness: If your 25 cents is determined from the use of my allocation figure, you would get the same kind of a gate rate charge for the other cities.

By Mr. Turner:

Q. 25 cents?

A. 25 cents, yes.

By Commissioner Geiger:

Q. Would you get the same gate rate at Portsmouth and Toledo, irrespective of the fact that one is in the southern part of the state near the source of supply and one is more remote from the West Virginia source of supply?

A. You would get the same gateway rate, but, if I may beg to differ with you, the source of supply isn't neces-

sarily different, because part of the gas comes from the north end of the state, part comes from the south and part from West Virginia.

Q. Well, that is on the assumption that the general average of the source of supply is near the center part of the State?

A. No, it is on the assumption that the system as a whole is so inter-connected and your gas supplies are so inter-mingled and your plant is operated as a complete unit, not as an isolated part of a unit, and that is why that it is necessary that you consider an allocation of this kind, in my opinion.

By Mr. Turner:

Q. The allocation basis that you have suggested for the Ohio Fuel Gas Company is what is popularly known as the volume basis, is it?

A. Sometimes called that, yes, sir. The total volume is equal to a hundred per cent, if I may add, and you simply prorate that hundred per cent to all your communities in proportion to their respective uses.

Q. In other words, you determine the Ohio Fuel Gas

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[fol. 2833] Company's gate rate as a unit, you get at its expenses, the necessary return on its capital and other factors such as depreciation, which, of course, is a part of expense, and then find out what the total gate rate should be in the state for the Ohio Fuel Gas Company, isn't that——

A. That is what would be done. I, of course, haven't done that.

Q. No, I understand. You have simply produced a factor which would be applied to the whole experience, the whole gate rate experience of the Ohio Fuel Gas Company?

A. That is right.

[fol. 2834] By Commissioner Bricker:

Q. Have you excluded in your consideration in arriving at that factor all industrial gas and contract gas and that supplied directly by the Ohio Fuel Gas to consumers as a public utility?

A. No. I have included all sales.

Q. All sales to industrial consumers and to consumers of the Ohio Fuel Gas as a utility?

A. That is right.

Q. And all expenses?

A. Well, I have made no attempt to include or exclude expenses. I have simply taken an allocation factor which is based on——

Q. Total sales?

A. Sales of gas.

Q. Would that throw out of balance in anyway your gate rate due to the fact that you are including in some of your consideration there, the distribution system, because there are certain communities where the Ohio Fuel Gas Supplies gas directly to the consumer?

A. I don't believe it would.

Commissioner Bricker: The Commission would not raise, I don't believe, the——

Mr. Turner: It would not take into consideration, Your 4895

[fol. 2835] Honor, would it, the distribution expense within that city? You see, the distribution expenses—Mr. Carter has not made any final figure on a gate rate. He has simply obtained a factor to be applied to the state wide gate rate, or the state wide expenses and return.

By Commissioner Geiger:

Q. Well, now, Mr. Carter possibly you have that in mind, but let's ask a question here. Assuming that the gate rate is to be determined as you have set out here in your Exhibit Number 168, have you figured as to what is a fair gate rate?

A. I have made no computations and have made no application of this percentage beyond determining the fair percentage to apply.

By Commissioner Bricker:

Q. Of course, it is a question, not of engineering, it is a question of fair application of a rule. In your judgment, is it a fair assumption that Toledo would be entitled to the same gate rate as Columbus or that Dayton would be entitled to the same gate rate as Columbus or Zanesville, which is much closer to the point of production?

A. I would say yes, although if you make any variation in that, it would be purely an arbitrary variation, recognizing that there are different communities.

Q. Different points of origin?

A. Different points of origin and also different points of delivery.

Q. This is what I had in mind a little while ago, one of the cities in the midst of a gas-producing field in Ohio had an editorial in its newspaper on this very point, and said the principal might be carried even further and you would have a gate rate for the United States, then New York would be buying gas at its gate at the same price this community

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[fol. 2836] would be paying at its gate, and yet right under the community was the very gas that was being sold to New York City. Fixing it at the state line would be just as arbitrary as fixing a zone or territorial distribution, wouldn't it?

A. It might be if they operated an inter-connected and interwoven system throughout several states.

By Mr. Turner:

Q. Intermingled gas?

A. Intermingled gas throughout the states.

Commissioner Bricker: Of course, there is no possibility of intermingling gas in the west unless there is a big pipe line comes through from the southwestern district there.

Mr. Turner: Wouldn't the same thing apply within a city, Your Honor? You have got to stop some place, and the theory here of this company is that it is integrated as one company in the State of Ohio, its delivery system, and its production system so correlated and so booked up that they furnish the service throughout the state by various means, various ways, and it is a unit, this is a unit. If it were in another state—I don't imagine how we could put it in another state. We might put a unit of street car systems, such as Judge Geiger used this morning, in the city, but——

Commissioner Bricker: Just a question of where fairly to draw that line.

Mr. Turner: That is the question, and it is a question based on the business judgment under the supervision, to some extent, of the Commission now, of the operators of the

property as to how they can best serve the unit they are serving.

Mr. Butler: Don't forget that the Columbia has declared that its whole system is a single operating unit.

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[fol. 2837] Mr. Turner: I am thinking of the Ohio Fuel Gas Company with which we have a contract.

By Commissioner Geiger:

Q. Now, Mr. Carter, there is another matter that occurs to me, and I don't like to take your time, but we had probably better do it now than worry about it later. Assuming that you are dealing with this group of properties, which are producers and distributors of natural gas to several gateways of the several cities in Ohio, what effect, if any, would it have upon that just gate rate if some other company might be able to serve the other communities in the State of Ohio from another and entirely independent source? For instance, suppose that the Amarillo field through the large pipe lines they are now laying would enter the State of Ohio from the west and distribute gas to cities that you are not now distributing gas to. What effect, if any, would that have upon the just gate rate of this present company that we now have under investigation?

A. I don't believe you can bring that into the picture, because, as I understand, court decisions, they have said that you must consider the situation as is and you are assuming a situation that, so far as I know, does not exist. I wouldn't know how to answer it until you have the facts as to how it did exist.

Q. We will assume another way then. It is not quite the facts that now exist, but assuming this company which is delivering to several cities in the State of Ohio extends its operation and furnishes its commodity to other cities, which are not now being served by it, what, if any, effect would that have?

A. As I see it, it would have no material effect, because you would then carry into your allocation factor the sales

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[fol. 2838] to the additional communities, wherever they might be. You would also carry into your problem the revenue from those sales, which would offset value, and you would come out at the same place.

Q. That is, assuming that the City of Lima is not now being served by your company, but is receiving its gas from another company which might not be able to serve it as cheaply as you can, assuming that that city became a consumer from your company, that would not affect the just rate for the several cities of Ohio?

A. It might change the allocation percentage but it would not change the final gate rate charge because you would be allocating the same property in a different way and you would be allocating a different revenue a different way, so when you divide your revenue by your value, you come out the same place.

Of course, the revenue depends upon how generally you sold the gas in the community. You might, using as an illustration, put in a lot of money to serve Lima, but there then being two companies existing there, you might be in competition and may not get your proportionate amount of revenue that should justly be derived from the expenditure of money you have to make to serve Lima.

A. Your expenditure would be to the gate line and that might have no bearing on the amount of gas sold, so if you sold a small amount, you would charge a correspondingly smaller amount to Lima and it would correspond with your sources of revenue.

Q. But it would work out the same gate rate to Lima as it would to the other?

A. Oh, it might vary slightly. It would be substantially the same, yes.

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[fol. 2839] By Commissioner Bricker:

Q. Is there any other way that you could get a factor, is there any engineering principle by which a factor might be arrived at that would recognize the distance of the various communities from the field of production and the greater amount of property that is used and you and I know is used to carry gas to Toledo than to Columbus?

A. I know of no method that would be applicable to the situation of this kind.

Q. Well, do you know of any method that has been applied in any large territory like this? Has it ever been done in Indiana?

A. Not on a demand mileage basis, or anything that compares to the demand mileage.

Q. The nearest that you know of then that would approach it is the allocation in the West Virginia United Fuel Gas between the gas that came in the state and that going out?

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A. Which is quite a different situation.

Q. That may be, but do you know of anything similar to the United Case?

A. I do not, no, sir.

[fol. 2840] By Commissioner Geiger:

Q. You, of course, have no means of determining whether or not the Columbia Gas & Electric Corporation would accept a state-wide gate rate if it perchance were fixed at a lower price than they thought they should have at Columbus?

A. I know nothing about that.

Q. You don't know whether they would make a case out of it in every other city in the state?

A. I don't know.

By Commissioner Bricker:

Q. Do you know of any other location in the country where there has been an attempt to fix a state-wide gate rate through a regulatory body?

A. May I answer you indirectly in this way?

Q. Yes.

A. At the present time, in Indiana, you may have noticed we have what is called a South System—this is not gas, it is electricity—in which a petition is on file with the Commission at the present time, valuations are being made to determine a uniform rate for the entire south and southwest part of the state. The Public Service Company, which is a Mr. Insul organization, filed with the commission of Indiana just week before last a submitted rate for electric service which made unified rates throughout that whole southwest quarter of the state.

Q. That was assuming that the company was supplying to the consumers in all the territory; it is a utility rate rather than a gate rate.

A. It is not a gate rate, it is a utility rate, but it is interconnected and interwoven by means of electric transmission

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[fol. 2841] lines and operated, so far as there can be a direct comparison between the electric and the gas in this system. It is hooked up with any number of ways of delivering electric current. May I just add this, you may recall that a short time ago, it has been some little time ago, the Indiana Commission fixed a city gate rate for electric current at Martinsville, Indiana. That went through the District Court, the Master made a finding some two or three months ago, but that finding has not been confirmed by the judges. In that particular case, an allocation was made to the city gate. That city gate price was used in determining the rate inside of the city.

Q. The company, I suppose, attacked that on the grounds it was wholesale rate. Was there a different distributing company from the producing company?

A. All the same company.

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[fol. 2842] Q. I just wanted to pursue the demand mileage basis one step further. Is there any trouble in the case of the Ohio Fuel Gas Company in getting the two factors needed? Assume that you could get the demand, could you get the mileage?

A. I think not, no, sir. My investigation disclosed the fact that it would not be possible to get anything like an accurate mileage for the travel of the gas which goes to make up the demand.

Mr. Turner: You may cross-examine.

By Commissioner Geiger:

Q. May I ask just one question there? You stated in your qualification that you had in the various matters that you have had under your attention used every known method of allocation?

A. So far as I know, I think I have, yes.

Q. Well, how many known methods of allocation are there?

A. Oh, you allocate on the space occupied and on the number of consumers and on the demands and the length

of travel and the use of the lines and revenues and values of the properties used in the line, demands, various things.

Q. Well, do you know of any two methods that would come out the same way?

A. It would be a coincidence if they did.

Q. That is, the engineers in allocating a property have a choice of a half a dozen different methods, all of which will reach a different result.

A. He doesn't have a choice of a half a dozen different methods, you have to take the method that fits the particular job you are trying to allocate and you cannot use all meth-

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[fol. 2843] ods in any case. That is the difficulty. You must have made your method either a specific method or a combination of methods that will fit the particular job that you are trying to allocate.

Q. And you think that none of the other methods that you have enumerated is so well suited to the particular situation here as that which you have testified to as to consumption?

A. There is only one method which I have attempted to use here that fits or comes as near fitting as it is possible to make anything fit, this particular job.

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[fol. 2844] Commissioner Geiger: Well, cross-examine him on that, if you want to. Why do you say that no allocation is possible other than that you have given, merely because gas flows in different directions through a network of pipe to different consumers in the State of Ohio, does that make it in your mind impossible to fix a different gateway rate dependent upon distance from source of supply?

The Witness: That is only one of the elements. The operation of the Ohio Fuel Gas Company system is such that it is not possible, in my belief, to obtain any kind of figures for any kind of allocation except on a sales basis.

By Commissioner Geiger:

Q. Well, suppose the other side says it is possible and points out a way in which it may be done, would you say if they can work out a system by which it might appear to be justly done, that the result in that case would be more fair to the consumers of a large district like the State of

Ohio than the method that you have in which you fix the uniform gate rate anywhere in the State of Ohio?

A. Well, of course, I can't answer that until I see what they could work out.

Q. Well, Mr. Blundon has given the demand mileage rate as his theory. You don't think that is good?

A. That in this case can not be applied in my opinion.

Q. And why?

A. Because it is not applicable and the facts are not 4912

[fol. 2845] obtainable upon which to base a demand mileage figure.

Q. How do you know they aren't?

A. Because I have tried to get them.

Q. Where did you try to get them?

A. At the office of the company. I have checked Mr. Blundon's method of computing and I don't believe they are right.

Q. He got them somewhere?

A. He got them out of the air, some of them.

Q. Out of the air?

A. His resultant figures, yes, sir. I have tried to check them, and I can't check them.

Q. Well, in other words, the net result of your statement is that Blundon has advanced a theory here which must be based upon hypothesis rather than on any just experience or fact?

A. On several hypotheses.

Q. All of which may or may not be just and right?

A. Which in my opinion are not right.

By Mr. Turner:

Q. In view of Judge Geiger's questions, may I ask this question, please? What were your instructions in the matter of trying to apply your West Virginia allocation method to the Ohio Fuel Gas Company?

Mr. Butler: I suppose it is self-serving. Let it go in. It is interesting.

A. I was instructed to make a demand mileage allocation of the Ohio Fuel Gas Company if at all possible.

By Commissioner Geiger:

Q. And you reported back it couldn't be done?

A. I did.

Q. Well, now, let me ask you just this one question, is it practical to do it in West Virginia?

A. For the purpose for which that allocation was made, 4913
[fol. 2846] it was possible to make that kind of an allocation, yes, sir.

Q. Well, you mean by that—what is the difference, a gate rate was not involved?

A. The gate rate was not involved because it was an attempt to allocate the property between West Virginia business and out-state business, no attempt was made to allocate between city and city or determine a city gate.

Q. Well, suppose that question were brought before you as an engineer for West Virginia, could you determine a gate rate for each city in West Virginia or would you treat all the West Virginia district the same as you seek now to treat the Ohio District, as a uniform system with a single rate for each community?

A. You would have to, as I see it, take the allocation that was made for West Virginia business and treat that as a whole, considering the value of the property chargeable to West Virginia and the revenues coming from West Virginia. That brings you right back to the Ohio situation which makes your uniform gate rate then.

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[fol. 2847] Cross-examination.

By Mr. Butler:

Q. Mr. Carter, how long have you been working on this matter?

A. The Ohio matter?

Q. Surely?

A. Today is Thursday. A week ago today.

Q. Been over here in Columbus working on it?

A. I have, yes, sir. I was not in Columbus last Saturday or Sunday. I came back Sunday night.

Q. Who employed you, engaged you in this matter?

A. Mr. Turner.

Q. He came over to see you or you came over to see him?

A. He called and I came over to confer with him.

Q. Who of the gas company personnel attended you and gave you the information you desired?

A. I talked to a great many people over there and I read the transcript of the testimony, and examined the exhibits and examined the working papers or photostatic copy of them as prepared by Mr. Blundon, and attempted to arrive at a method of making a demand mileage computation.

Q. Yes, I know. Was there any particular person assigned to you?

A. No particular person assigned to me all the time, I talked to a great many people.

Q. Did you read all of the testimony in the case?

A. I don't think I read all of it, no, sir.

Q. What did you read?

A. I read the testimony particularly pertaining to Mr. Blundon, a part of Mr.—Allensworth, is it?

Q. We have an Allensworth here, yes.

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[fol. 2848] A. And Mr. Phillips's testimony and a great deal of discussion by the attorneys.

Q. What?

A. And a great deal of discussion in the case by the attorneys.

Q. Naturally, yes. Did you by chance see Mr. Phillips's Exhibit, Company's Exhibit Number 23?

A. I haven't seen an exhibit marked as 23. I think I have some papers which probably was an exhibit. I haven't checked it against the original so I don't know.

Q. Just look at this and see if you saw those papers in your examinations?

A. I saw a copy somewhat similar to that without the pencil notations.

Q. You mean these pencil notations down here?

A. Yes, and the check marks. I did not see and have not seen this particular map. I have seen the other papers.

Q. You have seen all except this map that is devoted to Wheeler Station?

A. I have not seen that map before.

Q. The other papers you have seen and the other map. I understand you to say that a town on the Ohio River in Ohio served by gas from the Ohio Fuel Gas Company

should not have a lower gate rate than one on the shores of Lake Erie?

A. I don't think I said quite that. I said if it is a part of the system, it should be considered as a part of the whole.

Q. Well, my dear Mr. Carter, I am talking about these things that you have under consideration, and when I refer to any town, I refer to a town, I presume, in the Ohio Fuel System.

A. I beg your pardon. You didn't so state and I didn't know just what you had in mind.

Q. I see. Well, with that explanation, what do you say?

A. If it was a part of the system as a whole, it is fair

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[fol. 2849] to make a——

Q. I am asking you if those two towns are in the Ohio Fuel System? There is one on the shores of Lake Erie and there is one on the shores of the Ohio River. Now, do you give them the same gate rate?

A. Yes, sir.

[fol. 2850] Cross-examination:

Q. You understand that this company has a line running over into Indiana?

A. Yes, sir.

Q. To Muncie?

A. Yes, sir.

Q. Would you give to Muncie, for example, the same city gate rate that you would give to a town on the shores of the Ohio River down by Portsmouth or elsewhere?

A. If it is a part of the system, yes, sir.

Q. Well, it is a part of the system.

A. That is what I said. It is a part of the system and would take the same rate, necessarily.

Q. And you think it is perfectly fair, do you, that the City of Muncie, served as it is by this system, should have the same gate rate as the City of Portsmouth or any other city on the Ohio River?

Mr. Turner: City of Portsmouth doesn't get — from this Company, Mr. Butler.

Mr. Butler: Well, I said on the Ohio River that gets its gas from this system.

A. If it is a part of this system, it would be fair to consider it as a part of the whole, and give it a uniform rate, because it would participate in the system.

Q. By what method of reasoning do you reach that conclusion?

A. By this method, the system is operated as a whole. The gas is taken in at different places and intermingled,

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[fol. 2851] and one day the gas may go from one part to another part, the next day from a different part to that community, and the property is operated as a whole and it is not possible to segregate and make rates except as you may do them arbitrarily for widely different territories or towns.

Q. Have you made a study to determine where Muncie gets its gas?

A. I haven't made a study to determine. I think I know where it gets its gas.

Q. Well, where?

A. A part of it it makes from a local plant at Muncie. There is a water gas plant at Marion, as I recall, that may feed some gas back to Muncie. There is a water gas plant at Anderson which is interconnected and the Muncie Company gets a part of its gas from the natural gas line of the Ohio Fuel Gas Company.

Q. Well, now, where does that gas given to Muncie out of the lines of the Ohio Fuel Gas Company come from?

A. Comes out of the system of the Ohio Fuel Gas Company.

Q. Well, how far back do you run the system before you begin to put gas in for Muncie?

A. Nobody knows.

Q. Can't you tell?

A. I have tried to find out and according to the records of the company and the information given me, it is not possible to determine from where that particular gas may come, and if it did today, it may come from a different place tomorrow, and that is why a demand mileage won't fit.

Q. Well, how far does the Ohio Fuel Gas Company transport the gas which it gives to Muncie?

A. Nobody knows.

Q. Give me the minimum?

A. Nobody knows because a part of that gas that goes to Muncie may come from West Virginia, a part may come

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[fol. 2852] from different fields in Ohio.

Q. What different fields?

A. You have got the different gas fields here.

Q. I am asking you.

A. I haven't gone into the minute operation far enough to tell you which particular field on any one day. You have a northern district, an eastern district, the Mt. Vernon district, the Lancaster District, the Stewart District and the southern district, in addition to that purchased from other utilities.

Q. Well, where do those gases enter into the line by which the gas is carried to Muncie?

A. I have tried to say several times that the gases are intermingled in the system and you can not take a B. t. u. and tell where it comes from or where it goes.

Q. Oh, no, Mr. Carter. Is there any gas put into this pipe line after it leaves the vicinity of Dayton, for example?

A. So far as I know, not.

Q. That gives a piece of line, doesn't it? Where do you think the last gas does go in in that line?

A. The last gas?

Q. Yes.

A. I don't know. I don't think anybody knows. It would be at the last connecting point with the transmission lines hooked together to form one line going to Muncie.

Q. Quite so, but where is that?

A. Well, that is over, according to my map, somewhere over in the vicinity of Springfield. Between Springfield and Dayton.

Q. Well, now, just assuming that for a moment. do you think it is fair to charge against Columbus, for example, or Portsmouth or some city down on the Ohio River, or Athens

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[fol. 2853] near the Ohio River, a part of the cost of that pipe line from Dayton over.

A. Absolutely yes.

Q. Why?

A. Because that is a part of the system as a whole, for one reason. Another, because that pipe line may be used to pack gas to feed back into the system as another reason,

and because the revenues from the sale of all that gas go into the general revenues of the company. Necessarily, you must consider the whole when you consider the revenues.

Q. Well, how in the world could you ever get any demand mileage allocation in view of just what you have said?

A. I have said it can not be done.

Q. Well, you don't believe in it anywhere, do you?

A. Will you read the question, please, sir?

(Question read.)

A. May I ask, to see if I understand what you mean——

Q. Yes.

A. You mean do I believe in demand mileage as applicable to any situation?

Q. Yes, where you have a company that is supplying various communities?

A. I certainly believe in it because I have used it. I couldn't do otherwise and then use it.

Q. Well, I don't know that that follows?

A. It has to follow.

Q. No.

A. It does in my profession.

[fol. 2854] Q. You are taking in too much territory. Do you know when this line over to Indiana was taken in the Ohio Fuel Gas Company system?

A. No, I do not.

Q. Didn't inquire into that?

A. I made some inquiries, but I do not recall the dates as to when it was taken into the system.

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[fol. 2855] Q. Do you know anything about the Logan Gas Company system?

A. I have heard of it for a great many years in one way or another.

Q. Well, did you study its system in connection with the Ohio Fuel Gas Company system?

A. Not as a separate system, no; sir.

Q. Did you know that it had been taken in?

A. Yes, sir.

Q. Did you know when?

A. Not exactly the date.

Q. Assume that up until 1929, Columbus was being served properly and fully by the Ohio Fuel Gas Company and at

that time, the Ohio Fuel Gas Company took in this great line into Indiana, do you mean to say that under those assumptions you would attach to Columbus a part of the expense and cost of that line into Indiana?

A. Absolutely.

Q. Why.

A. Because the line into Indiana is and was part of the system under investigation as of the date of the inquiry and the courts have said, if I understand them correctly, that you must consider the property as is.

Q. Oh, are you giving the law or are you giving your conclusions as an expert, and if they are both, kindly divide them. I will argue the law with the Commission, not with you.

A. I won't argue law, of course, I am not a lawyer.

Q. Well, then, suppose we confine ourselves——

A. But appraisals must be made in conformity with decisions of courts and Commissions.

Q. This is not an appraisal, is it?

A. An appraisal of the property certainly is involved, certainly.

[fol. 2856] Q. Now, do I understand you to say seriously to this Commission that you are charging that line over into

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[fol. 2857] Indiana partially to Columbus because it acts as a great reservoir for the storage of gas and may be fed back?

A. I didn't quite make that statement.

Q. Well, how closely do I——

A. I said I would consider it as a part of the system, but I didn't say I would consider it because it was a reservoir only. I had some other reasons.

Q. Yes. But do you seriously urge upon this Commission as one of the reasons why they should charge a part of it to Columbus that it serves as a reservoir?

A. That is one of the reasons, certainly.

Q. Is that a very significant reason in your mind?

A. Well, it is a part of the system and it is used as part of the system.

Q. I know. I can't get in your mind, Mr. Carter, that I am trying fairly to know how largely that looms, if you can express it. If you can't——

A. Well, I don't understand that there is a question before me.

Q. How important is this storage capacity of this line into Indiana?

A. I wouldn't attempt to express it in percentage or dollars because I haven't attempted to analyze the situation in that way. I have taken the system as is and as operated.

By Commissioner Geiger:

Q. Well, the only advantage of the system leading to Muncie, Indiana, after it has gotten beyond the point where it receives any gas from the territory through which it passes, is its reservoir capacity?

A. No, that is not quite correct, if I may beg to differ with you. The revenues from that gas go into the revenues of the company, which affects your picture materially.

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[fol. 2858] By Mr. Butler:

Q. Mr. Carter, I don't think I understood you. You said when you came here and tried to get certain information from the company but couldn't get it; what information was it that you wanted?

A. I couldn't get— because it was not available, information as to the amount of gas into each different gate and from what particular point that gas came from or the length of travel of that particular gas, and further than that, the system is operated and the lines are so used that your direction of travel one day is not the same as the direction of travel the next day.

By Commissioner Geiger:

Q. Well, Mr. Carter, aren't you magnifying that a great deal? That may do to say that it doesn't flow always the same direction, but isn't this practically true that you have in the Cambridge gas field, the gas over there is largely con-

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[fol. 2859] sumed by local consumers, down in Muskingum County where gas is secured from Muskingum County it largely first supplies the local consumption and this theory that gas is going to float around from Cambridge over to

Muncie, Indiana, is just a little bit of exaggerations of facts?

By Mr. Butler:

Q. From whom did you get your story of the movement of this gas, who told you about it, Mr. Carter?

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[fol. 2860] A. I got part of it, large part of it from Mr. Phillips who has charge of the dispatching, as I understand it. I got it from reading some of the testimony, I think probably Mr. Phillips' some of the discussion of the attorneys in the transcript, some from Mr. Seyffert, talking to him, talking to some of the other members of the company around the office over there.

Q. Well, you got the great mass of your information from Mr. Phillips, didn't you, Frank Phillips?

A. Yes, I got considerable.

Q. From his testimony?

A. I checked him up, incidentally, on the boys who have charge of the meters, and checking the records, I checked the maps showing the location of the metering points.

[fol. 2861] Q. I asked you a while ago what information you wanted that your couldn't get and you drifted away, got entirely away from me.

A. I didn't mean to.

Q. I know, I realize that. But again tell me now, what was it you asked for? Don't theorize, but tell me exactly what you requested them to furnish?

A. I asked if it was possible to get the amount of gas at the various delivery points at the time of the peak and if I could get the source of that particular gas at that time.

Q. Well, they said no.

A. And told me why I couldn't.

Q. Well, did you ask for any records? What records did you ask for now?

A. I don't know as I asked for any particular record except——

Q. Experts go to records, don't they?

Mr. Turner: Let him finish, Mr. Butler.

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[fol. 2862] The Witness: If records are vailable for the thing you want, yes. If they are not available for the thing

you want, there is no use looking for something that isn't in existence.

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[fol. 2863] Q. What records did you ask for?

A. I asked if a record was kept in short form of the measurements at each and every different delivery point so that it would be possible to get the demands.

Q. They said no?

A. They told me those records were not available.

Q. Did you get the logs at the various compressor stations?

A. I saw the tabulation as taken from the meter readings at different points, and was informed that the logs or the charts were not kept and never had been the practice of the company to keep them.

Q. Didn't they tell you that the logs had been destroyed?

A. They told me that it was not the practice, they did not have them and it had never been the practice to keep them.

Q. They told you they never had had them?

A. No, they didn't tell me that.

Q. Well, I am trying to find out.

A. They told me that they had certain records and made certain measurements, necessarily must do so in order to keep track of the gas and to partly charge for it.

Q. Did you ask for the original logs or not?

A. I did.

Q. You did?

A. I did.

Q. And they said they didn't have them?

A. They said they were not kept.

Q. Well now, by that, did you understand them to say they had never been kept or they didn't have them then, hadn't kept them up to this time?

A. That they were not now in existence.

Q. Well, I know, Mr. Carter. Did that mean they had

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[fol. 2864] been in existence once and they had discarded them?

A. Some of the readings had been in existence once and the records had not been kept, and some records never had been made.

Q. Do you know what ones had been in existence and never been kept?

A. I think all chart records back exceeding three months or practically all exceeding three months have not been kept, any chart records made prior to approximately three months from now.

Q. You mean that all the chart records up to three months ago had not been kept?

A. Practically.

Q. You mean that the charts that have been made during the progress of this case weren't available for you?

A. I am talking about the records available for the year 1929, and I was informed two or three times by different people, that charts up to approximately three months ago for such meters as were in existence, a part of them would be available, prior to that time they would not be, because they did not keep them.

Q. That is what I am trying to get.

Commissioner Geiger: What Mr. Butler is interested in, at least we are, were their records that had been in existence during the pendency of this case that have been since destroyed and are not now available.

The Witness: Not to my knowledge, no, sir.

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[fol. 2865] By Mr. Butler:

Q. Well, anyway, whatever the reason was, these records up to a time three months ago were not available?

A. The records are available, but some of the charts from which the records are made in the past are no longer kept.

Q. Well, the original records are not available, they tabulated them, didn't they?

A. The original charts taken back years ago are not kept after they are tabulated, and a permanent record made from those charts, but let me add to that, the charts that the company does make and from which they keep a record, is not sufficient to give you all the factors that you need in making a demand mileage allocation.

Q. Did these compilations that the company had made in

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[fol. 2866] lieu of the original charts show pressures?

A. As I remember checking over the meter readings in some of the books it did, yes.

Q. Well, some of them, but did it generally?

A. I didn't check every one, but as I recall, they did generally.

Q. The engine readings?

A. I don't know what you mean by engine readings.

Q. Just tell us now briefly what these compilations did show you, then we can clear the rest out ourselves.

A. I examined the meter readings which shows the amount of gas at a particular point.

Q. Daily?

A. Some of them were daily, some of them were 7 days, some of them were odd number of days, some of them were——

Q. Monthly?

A. Monthly or more, different periods.

Q. Well, do you have your working sheets showing those that you considered?

A. I made no working sheets on that, because I didn't use it, couldn't use it.

Q. Do you mean to tell me, or rather the Commission, that no records could have been kept by the company which would have given you the information you wanted?

A. I think I can answer that by saying yes. May I explain why?

Q. Oh, make any explanation.

A. Because it is not possible to measure and at the same time get the mileage of travel of that gas. It might be possible to measure it, but you can't get the mileage, and you have to have both factors to get your allocation figures.

Q. Do you know about this line that runs to Toledo from Sugar Grove, Wheeler, up?

A. I understand there is a line and I notice two lines

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[fol. 2867] indicated on the map.

Q. To what places do those lines carry gas?

A. The map I have in front of me shows that they go from Wheeler Station north and west clear up into around Maumee.

Q. Let me see if your map happens to be my map?

A. It may be a copy, I don't know.

Q. That is what I meant. Yes, it is the same, isn't it?

So we may have the same point of view. We may read them differently, but the maps are the same?

A. They seem to be similar copies of the same map.

Q. Well now, running up into Maumee in the vicinity of Toledo, you will find more than 350 miles of transmission lines from 10 inch up. Would you be good enough to explain to the Commission how you regard that line as practically used and useful in supplying gas to Columbus, Mr. Carter?

A. I will try to, yes, sir. The line to Toledo or to Maumee in the direction of Toledo is a part of your system as a whole, it is interconnected with other lines of the company, and it is my understanding that that line is used for transporting gases or for interconnection with other lines, and it is also used for packing gases which may be used in some other different markets. It is a part of the whole, the revenues from it go into the receipts of the company and necessarily must be considered as a part of the property to be considered in determining a fair charge at the gate.

Q. Again I ask you, what importance do you attach to it as a useful vehicle for packing gas?

A. That question cannot be answered. That is one element that enters into your picture as a whole.

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[fol. 2868] Q. Can't you convey to the Commission some idea of its importance? I am not asking you to get it to me, but get to the Commission some idea of the importance that you attach to that.

A. I wouldn't attempt to place any percentage of importance. It is a part of the whole, it is operated as a part of the whole, and is connected to and made a part of the system.

Q. Suppose, Mr. Carter, that the Fuel Supply Company extended its line way up into Michigan and attached towns up there, would you still use that as a part of the whole of which Columbus should stand its share?

A. If you are attempting to determine a fair gate rate for Columbus and if you put into your revenues from which you determine a fair charge, the revenues in Michigan, as you assume, then you most certainly must bring into your picture all the property involved in rendering service.

Q. Well, would you give the same gate rate way up in Michigan that you would give down along the Ohio River?

A. Well, that is a hard one to answer.

Q. You bet it is hard, and that is the reason I am asking you.

A. I don't know. I wouldn't try to do the ridiculous thing, of course.

Q. Well, haven't you done it?

A. Absolutely not.

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[fol. 2869] By Mr. Butler:

Q. Mr. Carter, have you been told when this double line into the Toledo district from the Sugar Grove district became a part of The Ohio Fuel Gas Company System?

A. I don't recall that I have been.

Q. Assume that it was not taken in until about the middle of 1929——

A. May I ask the question, was that a part of the Logan system?

Q. No, sir, that was taken from the Northwestern Company.

A. Oh, I beg your pardon.

Q. But I think they were accomplished about the same

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time, roughly about the same time. Assume that it was taken in about the middle of 1929, Columbus was being served fully and properly before that time, tell the Commission why you think that that more than 350 miles of transmission line should be added to the cost of the total burden which Columbus should bear?

A. For the reasons which I have stated once or twice before, that that is a part of the operating system, it is interconnected, it is used in conjunction with supplying gas to the system as a whole, the revenues from the sale of gas going through that line go into the general revenues and it is a part of the property. The decisions in valuation matters, as I understand them, have said that you must consider the property that is in existence as a part of the system at the time of the investigation.

[fol. 2870] Q. Well, the law has no effect on your judgment, does it? I want to know which is law and which is judgment?

A. The decisions of courts and commissions certainly have some effect on what you put in property when you are making a valuation of it. If the courts say you must include certain things, you certainly must include them.

Q. What court has said that you, under the system that you have named, should make Columbus bear part of those 350 miles? Refer me to those decisions.

A. You are tying up with Columbus, Ohio. I can't answer that question, of course.

Q. Well, you said the decisions——

A. Well, as I recall, Indianapolis water case, in which I had a little part in the valuation, found that substitute plants should not be included and that the rates should be determined on the property as is at the time of the investigation. That is my recollection of the decision in that

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[fol. 2871] case.

Q. What is the McCarlin case?

A. Yes. I participated in that somewhat.

Q. You think that case furnishes you your authority for your action in this?

A. I wouldn't say that that case only. It is other courts and commissions.

Q. Well, have you any others? I am just trying to find out?

A. I can't cite you any other specific case at this time, no.

[fol. 2872] Q. All right. Now, you say among other things, these 350 miles should be taken in because their revenues go into the system as a whole?

A. That is one element, yes.

Q. What have the revenues to do with the fixing of a proper gate rate? Revenues follow after you fix a proper gate rate, do they not?

A. If your earnings or your revenues that you are securing at a certain time compare to the value after you allow for depreciation and rate of return and other elements that are proper operating expenses, determine what the rates are. Rates are determined after studies of revenues and expenses and values, of course, and I understand the revenues from this line go into the revenues of the Ohio Fuel Gas, the operating expenses, this line is operated as a part of a system. I haven't made any attempt to check into

operating expenses, but a system as complicated as this is, I doubt very much if it would be possible to segregate operating expenses for that particular line from the other lines.

Q. So, if I understand you, in fixing the gate rate, you taken into consideration your revenues?

A. In fixing any rate, revenues, net, and valuations 4937 [fol. 2873] necessarily are the two elements.

Q. Let me approach this from a different angle. Assuming that you had lines from the Ohio River reaching through to Columbus and to Toledo serving Columbus and Toledo and all of the gas came from West Virginia, would you allocate——

A. May I ask a question to clarify it, please?

Q. Yes, surely.

A. You are assuming, if I understand the question, that you have a line coming from West Virginia direct to Columbus serving nothing on the way but Columbus?

Q. Yes, then going on and serving Toledo.

A. That kind of a situation could be very easily allocated.

Q. It could be, but would you allocate it?

A. I would in a situation of that kind, yes.

Q. Be no question about it then, would there?

A. No, because you would get the basis then.

Q. Suppose I enlarge that a little and this line using West Virginia gas only, not only goes to Toledo but goes out to Muncie, Indiana, would you still allocate?

A. I certainly would in a case of that kind, because that can be done. I would make a different allocation there than I would make in this case, however.

Q. Upon what basis would you allocate there?

A. I would allocate the line from West Virginia to Columbus on the basis of the uses of the three communities. I would allocate the lines beyond Columbus on the ba-is of use beyond that point.

Q. To the other two?

A. If it was a joint line, yes. If it was a separate line, a line used for one purpose and one purpose only, I would charge entirely to the community for which it is used.

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[fol. 2874] Q. Well, that is my proposition. In other words, the line from the river up to Columbus would be divided between the three?

A. If it was used for the three, yes, sir.

Q. And if a separate line went off to Muncie, it would stand the charge of that, and if a separate line went off to Toledo, it would stand——

A. That is assuming that those lines are used to supply gas for those communities and not for packing or have any connection with the use of Columbia. If they are used in conjunction with rendering service to Columbus, then you must bring in some other factors.

Q. That is a very good illustration of the demand mileage allocation, isn't it?

A. No, that wouldn't be demand mileage. That would be on the basis of use, which is consumption.

Q. Well, don't you bring in the distances?

A. Not necessarily.

Q. How?

A. Not necessarily.

Q. How could you divide it?

A. Very easily. You take your relative consumptions, relative use of the line coming to Columbus in proportion to the amount of gas going to each of the three communities and divide your line in proportion to the use. If it is equal uses, divided it third and thirds. If it was one-quarters and one-quarters and half, you divide it that way.

Q. Yes, the line up to Columbus?

A. Yes.

Q. But what about the line over to Muncie?

A. That would be, if used for Muncie and Muncie only, would be entirely charged to Muncie. If it was used in conjunction with rendering service to Columbus, then you would have to put in some other elements in your allocation data.

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[fol. 2875] Q. But suppose it was used not only for Muncie but it was used for Xenia and Springfield and Dayton and Eaton and Greenville and Muncie, how would you group it out then?

A. If you could get your consumptions at each take-off point you would allocate the line from Columbus to the first

take-off point on one allocation, allocate from that take-off point to the next point of take-off on a different figure and from there on down until the last one takes off and from that point on it would be to the last city.

Q. But you couldn't ignore the mileages in between?

A. Absolutely.

Q. Is that the way you allocate it in West Virginia?

A. West Virginia allocation wasn't made in that way at all, it wasn't made with that kind of a purpose.

Q. You see I didn't ask the purpose.

A. I beg pardon. Will you read the question, please?

Q. I just asked how it was made.

A. The West Virginia allocation was made on a demand mileage basis to get state and out-state business.

Q. Well, if you made this allocation of which I am speaking on a demand mileage basis would it give a different result from what you are telling me you would get?

A. No, it would get the same result in that case.

Q. That answers it.

A. If your gas came from one compressor station and you knew your direct and your exact miles of travel and your demand at each community.

Q. You have before you the map prepared by Mr. Phillips which you attached to Exhibit 23, a part of it, and you have studied that map, have you not?

A. I have somewhat, yes, tried to.

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[fol. 2876] Q. And you know the two days of which that map speaks?

A. Yes, I do.

Q. And you see the amounts of deliveries?

A. I don't know whether I know what you mean or not. I see some figures on the map.

Q. I thought you had studied it and read Mr. Phillips' testimony?

A. I have.

Q. Well, don't you recall now what that is?

A. I have read Mr. Phillips' testimony and, as I recall, the figures are put on there purely as an indication and not as an exact fact as to quantities of gas.

Q. Oh, I see.

A. In fact on the 13th of January, 1929, the actual measurement to Springfield was 8,556 m. cubic feet and the

map shows 9,000 m. cubic feet, which shows that they cannot be right.

Q. No, those two numbers are not the same, that is evident.

A. Which is evident that the map isn't right, because the other figure was taken directly from the records.

Q. I see. But I am about to put to you a hypothetical question and before I do that, let me ask you whether you have observed the direction of the flow of gases as indicated on that map?

A. I have observed arrows which purport to indicate the flows under certain conditions, yes.

Q. Mr. Carter, just to please me, assume that that map is correct and that it does show the proper amounts and does show the direction of the gases, then what do you say about allocation?

A. I don't believe I understand what you mean to say about allocation.

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[fol. 2877] Mr. Butler: I don't want you to say anything except what you believe. Read the question again.

(Question read.)

A. Do you mean demand mileage, do you mean consumption?

Q. Yes.

A. I can say several things about allocation.

Q. I know you can, but what will you say? What about allocation with respect to demand mileage, assuming that map to be true as to quantities and as to the direction of the flows?

A. I can say, I think, only one thing, that is that it would not be possible to correctly compute a demand mileage figure and apply it to this system to ascertain a fair allocation of property to Columbus.

Q. What is there on that map to indicate to you Columbus' use of the line running north to Toledo?

A. On line H there is an interconnection between Treat and Columbus, and I cannot tell from the map, the map doesn't so indicate whether or not any gas is taken out of line T-10 or T-50 to go to Columbus.

Mr. Turner: You said "H" there.

The Witness: Line B; I beg your pardon. Line B. Neither do I know how much of the gas may be taken out to serve Delaware. Neither do I know where the gas in that line comes from, even though it might go as the arrow indicates.

Q. I am not talking about that it might go as the arrow indicates. I am asking you to assume that it does go as the arrow indicates. Now, if you refuse to hold yourself to that, of course, I get nowhere, Mr. Carter, and you can frankly say that you don't propose to answer my question on the assumption?

A. No, I don't propose to make such indication at all.

Q. You are intelligent and you know what it means?

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[fol. 2878] A. Thanks.

Q. What has the use of Delaware to do with any allocation to Columbus?

A. It comes right back in the same thing again, your revenues at Delaware go into your general revenues which in turn effect your proper charge for a gateway charge, it is a part of your system, operated as such. The whole plant is interconnected.

Q. Well, outside of revenue now, what use does Columbus get from the facts portrayed on this map of this line to Toledo from a point north of where it crosses line B?

A. Line B?

Q. Yes.

A. The only thing on the map or the only interpretation with your question that could be assumed under that condition, Columbus might get gas, taking it out of the line at the connection of lineB, gas might travel up from Wheeler up to Line B and thence back over to Columbus. The line might be packed so that gas would go out at the intersection with B and go into Columbus.

Q. Well, now let me enlarge my question. Outside of the matter of revenues, and outside of the possibility of packing to which you attach some importance, what other reason existed in the light of the facts portrayed by this map why Columbus should be held for a part of the expense of the line north of where it crosses line B?

A. Will you read the first part of the question, please, Mr. Reporter?

(Question read.)

A. The map, in addition to the other reasons I have attempted to give, shows the line as a part of your system as a whole and you cannot segregate any particular part or any particular foot in fairness to the system as a whole,

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[fol. 2879] you must consider the entire picture and not just some particular part of it.

Q. Of what benefit to Columbus, outside of revenues now and outside of the packing, I am giving you the benefit of what you have said, not trying to mislead you, outside of that, what possible benefit could the remainder of that line north be to Columbus?

A. It is a benefit indirectly in that it is a part of the system and is operated as such.

Q. No better answer or any other answer?

A. I don't believe there is any other answer necessary.

Q. All right, sir.—We may differ as to that. Did you make any study of the amounts of gas produced in Ohio and used by The Ohio Fuel Gas Company?

A. In a general way only.

Q. Well, that doesn't convey much to us, and I am not critical, but tell me a little more closely, did you gather any information that could be of any benefit in any discussion here? I don't want to question you about something if you have just not looked into it.

A. I have only made a general inquiry as to approximately the parts of gas from in the state and out of the state. As I recall, Mr. Phillips' exhibit and his testimony, there was a considerable percentage of the gas coming to Wheeler station that came out of West Virginia. I did inquire as to the flow of gas from the different fields and was informed that sometimes that gas went to one locality, sometimes that gas went to another locality, some places the gas was used locally in the community and sometimes it was necessary to feed gas back into communities adjacent to the field to take care of the increased demands on peak days.

Q. It seems to me that most of your information was got-
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[fol. 2880] ton from the company officials upon interrogation, was it not, frankly?

A. Necessarily it has to be that way.

Q. I see. Well, did you call for the records showing the production of Ohio gas for the Ohio Fuel Gas Company?

A. I don't believe that I did, as I recall.

Q. Did you make any attempt to determine the amount of Ohio gas in the territory, produced in the territory south of Sugar Grove and south of Wheeler?

A. Just read that question, please.

(Question read.)

A. I don't just recall whether I did or not, frankly.

Q. Well, I can't help you on that.

A. I made inquiries as to the amount of gas in the different fields, and the different communities, but just as to your particular question I cannot answer it, I don't recall.

Q. You don't regard that as of any importance in the solution of this problem?

A. It is important insofar as the operation of the system is concerned. Insofar as arriving at a fair method of allocation, the general information as to the source and as to the direction of flow I did attempt to ascertain. That information, of course, is important in allocation information.

Q. Why is that production important in allocation?

A. If you use a demand mileage figure for allocation, you must know for each delivery point that you are using in your demand base the source of that particular gas; because the gas must travel a certain distance or else your demand mileage does not indicate or does not give a true picture. And since the operation of the fields are such by
4945
[fol. 2881] different classes of wells, it is not possible to get at any one day or exact day, because of local consumptions, the exact output of any field and where it goes.

Q. Couldn't you very fairly get the monthly and then the yearly productions, couldn't you get the average productions?

A. When the wells went on the line, company-owned wells, it would not be of any particular interest, because they are interested in operating the system as a whole.

Q. Oh, yes, I know.

A. And I doubt if you could get the information you are inquiring about.

Q. Well, you didn't try?

A. I tried to get information or tried to find out if records were available as to where gas came from, and as to where it went and that I was informed could not be done.

Q. Yes, you wanted them to solve the expert question, but did you ask——

A. No, I didn't want them to solve the expert question.

Q. Very good, but did you ask them to produce for you the records showing how much Ohio gas used by the Ohio Fuel Gas was produced in the year, for example, south of Wheeler Station?

A. I don't think I asked that question.

Q. Nor south of Columbus?

A. I don't think I asked that question.

Q. Nor any other zone, did you?

A. I asked regarding——

Q. Just a moment, please.

A. Any particular zone? No, I think not.

Q. No, sir.

A. Not as a separate distinct part by itself, because that goes at different points, and in different directions on different days and couldn't be used for allocation purposes.

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[fol. 2882] Q. Do you mean to say to this Commission that you are making an allocation in this case?

A. I certainly do, yes, sir.

Q. Is that what you call an allocation?

A. Certainly.

Q. Why, Mr. Carter, should you go to the trouble of talking about allocation for what you call this unified system when it produces and must produce nothing more and nothing less than a state-wide gate rate?

A. Why?

Q. Yes.

A. Because I was asked to ascertain what was a proper portion to be charged to Columbus.

Q. Well, Mr. Carter, don't you answer that when you say that you must take the whole system as a unit and fix a common gate rate for the whole territory covered by that unit?

A. May I ask what you mean?

(Question read.)

A. You will have to tell me what you mean by that. You used the word "that" and I don't know what you have in mind.

Q. Well, I will try again, Mr. Carter. You say that this system, as a unit, must be taken as a single operating unit?

A. I so stated, yes, sir.

Q. And you say that, as a matter of principle, there must be a common gate rate for all of the communities, don't you?

A. I think I so testified, yes, sir.

Q. Well now, when you say that, will you please tell the Commission why you should proceed and pretend to allocate?

A. I made an allocation because I was asked to determine the percentage of property properly chargeable to Columbus.

Q. Well, can your method of allocation, which you are

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[fol. 2883] applying here end in anything except a common gate rate for all of the communities in the system?

A. No.

Q. Of course not. Then why talk about allocation? In other words, now, I want to be fair with you, Mr. Carter, I think you voiced that in the beginning and then you went on into this; what you now really, fairly say to this Commission is that you can't allocate here, that in a unified system where all of the revenues come in, for example, that there is no allocation, you simply have a common gate rate; don't I state you clearly, now?

A. No, I think not. You can allocate. The result of the allocation is as you say, but you can allocate.

[fol. 2884] Q. All right, sir. How long were you working on the United case?

A. You mean in the number of weeks or months?

Q. Yes.

A. I think I was employed in July, 1929, and as I recall, some of the hearings, the later hearings were held in April of 1930. I may be in error about that date.

Q. Nine or ten months, probably, you were working there before you finished your testimony?

A. I wasn't working continuously that time. I was part time on and part time on other things. Just how many hours or how many days I can't give you that information because I haven't it with me.

Q. I suppose you know that the United is a part of the Columbia system?

A. Yes, I understand it is.

Q. You know that this company is a part of the Columbia system?

A. So I understand.

Q. And the Ohio Fuel Gas Company is part of the Columbia system?

A. That is my understanding.

Q. Well now, down there, as I understand, your investi- 4948

[fol. 2885] gations went to the matter of allocation and the determination on the value of the leaseholds?

A. I made studies on those and other things, too, yes, sir.

Q. What other things?

A. I made some studies as to depreciation, amortization, I think I collaborated with Mr. Blundon on some of his work. I made a number of exhibits, using all the allocation data, applying the allocation to the appraisals under a great many different assumptions, assuming gas as was being bought, assuming all the gas, assuming different operating conditions, assuming all the gas was purchased at the price, I made investigations as to the price being paid for gas. I made a report on lease information, I did quite a little work on the thing in different ways.

Q. And you testified at rather considerable length, didn't you?

A. I think not very much length. I testified.

Q. A number of different times?

A. I was down there two or three or four different times. I don't remember the number of times.

Q. Have you read your testimony recently?

A. No, sir.

Q. Have you any desire to advise the Commission that you have changed your opinion in respect to any of the testimony given by you which is now a part of the records of this Commission?

A. I have to read the testimony before I could answer that question.

Q. Well, do you recall any mistake in principle that you made?

A. I don't know what you are talking about.

Q. Well, you determined certain things down there for the cities, didn't you?

A. I made certain studies and certain reports, yes.

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[fol. 2886] Q. Do you think that you were in error as to the principles that you applied to any of those?

A. For the purpose for which they were made and the reports as made, no.

Q. As far as you know your testimony is correct?

A. I haven't read it. I couldn't say.

Q. Well you think it was correct when you gave it?

A. I hope it was, yes, sir.

Q. So do I. And nothing has occurred to you since to make you believe that you were in error?

A. I haven't been in West Virginia for approximately a year and a half.

Q. Oh, I know. That case is still pending, isn't it?

A. I understand that it is, yes.

Q. Have you been discharged in that case?

A. As far as I know my services are——

Q. Well, as far as you know.

A. I have been paid and I have not been retained and done no work for approximately a year and a half.

Q. Yes. Who told you that your services would not be longer needed in that case?

A. I don't know as anybody ever told me that, but when they paid me off and no demands for further service, I assumed that my services are over.

Q. I assume so. Did you interrogate anyone to ascertain whether your services would be needed longer?

A. I think I did, yes.

Q. Whom did you interrogate?

A. Mr. Blundon. He intimated in a letter he wrote to me a couple of months ago, that he probably would see me in Charleston some time in the future.

Q. Please let me see that letter, will you?

A. You mean Mr. Blundon's letter or my letter?

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[fol. 2887] Q. Oh, both of them.

Mr. Turner: We have had lots of talk—we talked about cluttering this record.

Q. You have them?

A. Yes. These are part of my personal file; I don't care for them to go in the record.

Q. I have here a letter from Blundon to you dated August 1, 1931, and also a copy of youe letter to Blundon, August 4, 1931, in answer to his letter to you of August 1. Do you say that it is from this letter of Blundon's that you received your dismissal?

A. I made no such statement as that at all.

Q. What did you mean to say, Mr. Carter?

Q. I didn't say anything about from that letter as to the dismissal in the West Virginia case in any way, shape or form.

Q. Who hired you in the West Virginia case?

A. I was hired by Mr. Ritchie and Mr. Paul Scott, as I recall, at the suggestion of Mr. John Jirgal of Chicago.

Q. Well, have you communicated with them as to whether you are to——

A. Mr. Ritchie and Mr. Scott? No, sir.

Q. Why not?

A. Because I didn't presume that a thing of that kind was entirely ethical. I thought if they wanted me—I have been busy—if they want me, to let me know.

Q. You thought it wouldn't be ethical to inquire of them whether they were through with you, is that what you mean to say?

A. I didn't say that.

Q. What did you say?

A. I said I didn't think it was ethical to inquire of them if I could work for them in the pending case.

Q. You knew the case wasn't completed?

A. I didn't know what or where the thing was going to

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[fol. 2888] land. I knew it wasn't completed finally, yes, sir.

Q. Have you received a letter from Scott or—what is the other man's name?

A. Ritchie.

Q. Ritchie, recently?

A. No, sir.

Q. About the case?

A. No, sir.

Q. When did you hear from them last?

A. Oh, I heard from Mr. Ritchie some time in October, because I received from the West Virginia Commission a copy of the order issued under date of October 3rd, and I assumed that it was sent to me through the courtesy of Mr. Ritchie, and I wrote and thanked him for that.

Q. And then he answered?

A. He did.

Q. Have you those letters?

A. I think I have. There is my letter under date of October 5 and Mr. Ritchie's on October 8. May I have those?

Q. No, not yet. I am not through with them yet. I will not run off with them without an understanding.

A. All right.

Q. Well, do I understand you to say in any way that in view of this letter from Mr. Ritchie you assumed that you were no longer in that case?

A. I made no such statement in any way, shape or form, Mr. Butler.

Q. Mr. Carter, do you think it was square for you, having been employed and paid in that pending case, to take employment here where the Columbia System was involved, without definitely ascertaining whether you were out of that litigation?

A. Absolutely, yes. This doesn't involve the West Virginia case in any way, shape or form as I see it, no connection between the two.

Q. At least your conscience is very clear?

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[fol. 2889] A. Absolutely, yes.

Q. Now, these four letters, City's Exhibit 95, Blundon's letter to Carter dated August 1, 1931; 95-1, Carter's letter to Blundon, August 4, 1931; 95-2, Carter's letter to Ritchie, October 5, 1931; 95-3, Ritchie's letter to Carter, October 8th 1931. Now, Mr. Carter, I think that your attorneys will advise you that you may trust the official stenographer and he will make copies of all of these and you will want some copies, Mr. Turner——

Mr. Turner: I haven't seen them yet, Mr. Butler. You haven't offered them to us for inspection.

Mr. Butler: Well, I beg your pardon. I didn't mean to deprive you of that pleasure, but I think they will tell you, Mr. Carter, that the stenographer will make the copies and copies for opposing counsel and return those to you.

The Witness: I would like to have my file back, if I might, please.

Mr. Butler: Oh, sure, you are quite right about that.

Mr. Turner: Why don't you read them into the record instead of taking the time to have them made up into exhibits? They are short. Of course, I object to the marteriality, but——

Mr. Butler: Mr. Turner; if you will just be good enough to hold them, I shall be glad to change that and when we next meet I shall read them into the record. I have no objection. I thought this was the way you preferred. Personally, I should be glad to have them in the record. So it is wholly a matter of indifference to us.

Mr. Turner: I have no objection to your reading in this one of August 1st, 1931 from Mr. Blundon and the August

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[fol. 2890] 4 from Mr. Carter to Mr. Blundon——

Mr. Butler: I want the four of them in.

Mr. Turner: Well, the court will pass on them separately, I assume. I am making no objection to them. I am objecting to the others when the time comes.

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[fol. 2891] Commissioner Bricker: Just read them into the record then, I think would be better.

Mr. Butler: Mr. Blundon's letter to Mr. Carter:

"August 1, 1931.

Mr. Earl Carter, Consulting Engineer, Indianapolis, Indiana.

DEAR "CARTER": I would like very much to get a copy of Hightower's working figures; that is, the days that he used and the mileage he used in making his allocation in the United Fuel Case; as well as the mileages that you used. I have in the figures, of course, the demands which we prepared for you, and, also the mileages which we have you, except on the Ohio deliveries.

I am working on some of the Ohio cases which involve an allocation of the United Fuel Gas Company property to certain Ohio service.

I am expecting the United Fuel Gas Case to start up again within the next thirty days, and will probably see you at that time.

With kindest regards.

Very truly yours, J. Paul Blundon."

Your reply to that is as follows:

"Indianapolis, Indiana,
August 4, 1931.

"J. Paul Blundon, Consulting Engineer, Keyser, West Virginia.

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[fol. 2892] DEAR MR. BLUNDON: Replying to your letter of August 1, regarding average daily demands and distances used in the United Fuel Case, beg to advise that I am enclosing copy of information regarding wholesale consumers showing actual demands and the M. Cu. Ft. used by me in my allocation data. I am also enclosing copy of maximum daily consumption for industrial consumers showing the same information.

You will notice on these sheets column of figures designated as 'Company Daily Report'. I do not seem to have in my file a copy of the working sheets made by Mr. Hightower, but it is my recollection that in his Allocation Data he used the figures shown in the column headed 'Company Daily Report'

I am enclosing copy of sheet which shows the average daily maximum demands together with the distances used in the Allocation Data.

It is my recollection that Mr. Hightower did not allow anything for the additional distance to the next point of compression as I allowed. All of the distances shown on the attached sheet were agreed to with the one exception of the Pittsburgh and the West Virginia Gas Company. The total distance contended for both companies being 49.5 miles where I used a distance of 55 miles.

I regret that I can not supply you with a complete copy of detail of Mr. Hightower's Data, but it is my recollection that he used exactly the same days for the various demands that I used.

In your letter of August 1, you spoke of expecting the United Fuel Gas Company to start up again within the
4956
[fol. 2893] next 30 days. I have lost contract with the present situation and I will appreciate if you will advise me as to just where the case stands at this particular time.

If you care for any additional information or explanation of the data on the enclosed sheets I will be very happy to give it to you. Best personal regards, I am

Yours very truly, Earl L. Carter."

Now, the other two letters, one from Mr. Carter to Mr. Ritchie:

"October 5, 1931.

Mr. Charles Ritchie, % England & Ritchie, Attorneys, Charleston, West Virginia.

DEAR MR. RITCHIE: I am just in receipt of copy of Bulletin No. 127 of the Public Service Commission of West Virginia, bearing date of October 3rd.

I do not know whether the Commission sent this copy to me or whether it was mailed by your office. However, I assume that it was through your courtesy that I received the copy and I wish to thank you for sending it to me. I have not yet had an opportunity to read the decision, but hope that it is in line with the desires of the attorneys for Charleston and Huntington.

With best personal regards, I am,

Yours very truly, Earl L. Carter, Consulting Engineer."

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[fol. 2894] Mr. Ritchie's reply thereto:

"Charleston, West Virginia,
October 8th, 1931.

Mr. Earl L. Carter, Consulting Engineer, Continental Bank Bldg., Indianapolis, Indiana.

DEAR MR. CARTER: I bet to acknowledge receipt of your communication of the 5th instant, acknowledgin- receipt of Bulletin No. 127 of the Public Service Commission of West Virginia bearing date of October 3rd.

This bulletin is rather voluminous and somewhat remarkable in that no two of the Commissioners would agree.

I am going to Huntington tomorrow for a conference with Mr. Scott and others relative to our next step in the matter. While I have never thought that a temporary rate should be treated as an appealable order, yet in view of certain remarks made by certain members of the court and the position that was taken heretofore by counsel representing the gas company, I feel that we should attempt to get an appeal to the Supreme Court from the order of October 3rd.

With kindest personal regards, I remain,

Very truly yours, Charles Ritchie."

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[fol. 2895] By Mr. Butler:

Q. Now, did you have from them in West Virginia who were employed with you any further information except what is disclosed by these four letters?

A. I have a copy of the order is all, which was sent me.

Q. Oh, yes, but nothing beyond the four letters and the order?

A. The two letters did not come from West Virginia, and Mr. Blundon did not employ me in any way, shape or form.

Q. Well, Mr. Ritchie and Mr. Scott employed you?

A. Yes, sir.

Q. I understood you to say that you had used every known method of allocation; does that quote you correctly?

A. I believe not. I believe I said I think I have used every known method of allocation.

Q. All right; I stand corrected. Did you ever in any other case use the method that you used in the United in the pending case there before the Commission?

A. No, I think not.

Q. That is a demand mileage allocation, isn't it?

A. That is, yes, sir.

Q. And a very good example of the application of the principle, isn't it?

A. Very good example did you say?

Q. Yes.

A. Yes, I think so.

Q. And very properly applied in that case?

A. For that particular purpose it was all right.

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[fol. 2896] And also—

EARL L. CARTER, resuming the stand for further cross-examination, having been heretofore duly sworn, continued his testimony as follows:

Cross-examined by Mr. Butler:

Q. Mr. Carter, in determining the mileage in West Virginia, in your allocation there, you took mileage beyond the boundaries of West Virginia, did you not?

A. We did in some cases, yes, sir.

Q. In how many cases?

A. We took the mileage beyond for The Ohio Fuel Gas Company.

Q. Up to what point?

A. Well, I believe we assumed a distance up to Wheeler or Sugar Grove; Sugar Grove, I believe it was.

Q. Well, go ahead.

A. We made allowances outside of the State on Central Kentucky Natural Gas Company, on Louisville Gas & Elec-

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[fol. 2897] tric, and I believe on Portsmouth Gas, and I believe on Hope, as I recall.

Q. It amounted to a very considerable mileage, didn't it?

A. Some of the mileage is pretty good mileage, yes, sir.

Q. Can you give me the mileages?

A. Do you mean the total or the individual mileages?

Q. The individuals, please?

A. I will see if I can; on Ohio fuel Gas there was a mileage of 65; on Pittsburgh & West Virginia Gas——

Q. Well, let us stop before you go to the second; in other words that was the distance from the Ohio River up to Wheeler's—or what was that distance?

A. 65, as I recall, was the distance from the river up to Sugar Grove, I think we took, as I recall.

Q. But the gas was metered to the Ohio Fuel Gas Company at what point?

A. Down near the river.

Q. Go ahead with the next one.

Commissioner Geiger: May I ask right there, why did you, in estimating the value of the property in West Virginia, include as a part of it the pipe line from the Ohio River to Sugar Grove?

The Witness: I am afraid you misunderstood; I did not include any of the pipe line of The Ohio Fuel Gas Company or of any other company in the valuation in The United Fuel Gas Company property.

Commissioner Geiger: I see. All right; I misunderstood.

The Witness: The purpose was to attempt to allocate to West Virginia business and the out-State business the compressor stations, land, buildings and equipment and the 4969
[fol. 2898] transmission line used in conjunction with carrying the gas. No attempt was made in any way, shape or form to include any property not belonging to The United Fuel Gas Company.

Commissioner Geiger: All right.

By Mr. Geiger:

Q. In your estimate of mileages, in giving your demand mileage, did you take into consideration that 65 miles approximately from the River up?

A. That was used in the final percentage of allocation.

Q. Yes, just as much of a mileage in the allocation as if it had been in Kentucky, on the Kentucky side?

Mr. Turner: No.

The Witness: I do not understand your question, Mr. Butler.

Q. All right, if you don't; can you make it clearer to the Commission then how you did use it? Tell it in your own way.

A. I can tell what I did and the reason for it, yes, sir.

Q. All right.

A. We used two mileages, one representing a mileage of line owned by the company; another representing a mileage that the gas was carried or compressed or pushed, if you care to put it that way, by the compressor plants, owned by the United, and no attempt was made to allocate pipe, field lines or any of the physical property for any mileage beyond the end of ownership of The United Fuel Gas Company. In order to arrive at some estimate of the use of the compressor stations the additional mileage to the next point of delivery or next point of compression was used in

certain cases to make an allocation for the compressor equipment, station, land and buildings equipment. Those two, were weighted in the *real*tion of the relative values

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[fol. 2899] of the compressor portion of the transmission property and the balance of the transmission property, and the weighted figure was used as a part of the allocation data.

Q. What was the next one?

A. The next one where mileage was used was—the original question was mileage outside of the State as I recall; The Manufacturers Light & Heat Company, the mileage outsi*ed* of the State, a mileage not owned, of 70 miles; and in the Central Kentucky Natural Gas Company, a mileage not owned of 110 miles. The Louisville Gas & Electric, the miles were 90; and that is all.

Q. How much did you use from Inez to Lexington, Kentucky?

A. I used a distance of 110 miles.

Q. That was upon the theory that compressors in West Virginia were pushing or delivering gas to these points in the adjoining States?

A. That is right.

Q. And that factor was taken into your allocation?

A. Yes, because we were attempting to allocate between West Virginia and other States.

Q. Did I understand you yesterday to mean to say—and I confess that I am not clear—that in determ-ing your mileage you went back to the compressor stations in Kentucky—I mean in West Virginia?

A. In determining the mileage or in using a mileage, the mileage finally used was an agreed mileage which was agreed on with representatives of the company after considering the various elements that go into making up the lengths, and it so happens that some of those agreed mileages took in a distance back behind the station.

Q. I again ask you whether—and I will change it slightly

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[fol. 2900] to be fair to you—whether in your original compilations you took any distances back of the compressor stations?

A. The distances used——

Commissioner Geiger: Can't you say yes or no on that?

The Witness: No, I cannot, without explaining it.

Commissioner Geiger: All right, go ahead.

The Witness: The distances used and agreed to do reflect distances behind the stations.

Mr. Turner: You better listen to that question; you may have slipped on the question.

The Witness: Read the question, please.

(Question read.)

The Witness: Yes, sir, or at least the figures used reflect that.

By Mr. Butler:

Q. Well, I don't know what you mean; you used certain mileages; did those mileages extend back to the compressor stations in your original study?

A. The mileages used in the original study were such as to carry back behind the compressor station.

Q. One of the reasons why I asked you that is in your testimony which is on file in this case, and I now refer to page 4526 of that testimony, you were asked this question, and you gave this answer——

Commissioner Bricker: That is the record in the United case?

Mr. Butler: Yes, it is in one of the exhibits.

Q. "Ques. Mr. Carter, have you given effect to the first stage of compression which takes place behind the main station, at any station except Spencer?" "Ans. No, sir."

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[fol. 2901] "Ques. Would this increase the mileage if you did that?" "Ans. It would, yes; what I have been trying to do is to get the practical allocation of the property."

Does that refresh your recollection any, Mr. Carter?

A. I have not read that or heard it for some time. I have forgotten what I testified to, of course. In checking up, the mileages I find that the mileages I originally did use did reflect some distances, and if I made that statement I must have either been a little in error or did not have all the figures before me.

Q. Why, don't you know that that testimony was after the conference which you had had with their experts?

A. And at which time we agreed on Charleston as a 27 mile distance. I find that the 27 miles is more than the distance between the compressor station and the point of delivery, which necessarily means that it must have in it some reflection for some distance behind the compressor station.

Q. Well, you think you were mistaken when you gave this testimony down there, is that what you say now?

A. I might not have had—I did not have some of the figures at that time that I do have now, or some of the facts, I should say.

Q. Well, that question was put so squarely and frankly to you I do not see——

Mr. Turner: Isn't that argument?

Mr. Butler: All right; it is, Mr. Turner.

Q. Early, before the conference—page 2696—you gave some testimony; let me read back just a trifle;

"Ques. The transmission system you say is demand 4973

[fol. 2902] mileage?"

"Ans. Yes, sir."

"Ques. Explain that."

"Ans. By the demand mileage is meant this; a study was made of the demands of the various communities, wholesale consumers and domestic consumers, and the distances those demands are from the compressor plant was used. The percent between the products of the demand times the mileage gives you the percent chargeable to the different types of grades of service."

Now does that refresh you a trifle?

A. It so happens that the miles that we agreed to does give a mileage in addition to the distance between the compressor and the point of measuring which necessarily must mean that some consideration or some face, whether it was intended to or not, goes into that total mileage which, in turn, would affect the figure.

Q. Well, I am asking you now about your original calculations and computations. I understand in your conference there was give and take, as there are in all conferences. I am trying to get at what you did and what you said and what your theory was.

A. The intent was to get the distance of all of the gas; that was the intent and the purpose.

Q. Well, your testimony is here. Just answer me this question—and I will read; did you or did you not, in your studies there, before the conference, take the mileage back simply to the compressor stations?

A. We took some average mileages.

Q. Can you answer that by yes or no?

A. I cannot, no, sir.

Q. Well, you are entitled to any explanation you want to make then.

A. We took some mileages, as I testified yesterday, 4974 [fol. 2903] originally gotten from Mr. Selman, of Arthur Anderson & Company, and cited you the City of Charleston, in which we used 27 miles. As I recall checking with Mr. Blundon we found the distance from the station to the city of some 22 or 23 miles; we arbitrarily, if you want to put it that way, we used in the final allocation figure, or the original allocation figure——

Q. During your conference——

Mr. Turner: Well, now, I object; won't you let him finish? You cried when I stopped your witness.

Commissioner Geiger: Go on; confine your answer to the question in the briefest possible way.

The Witness: I am trying to.

Commissioner Geiger: Until they ask you more questions if you don't answer it; you were about to say you took 27 miles arbitrarily; go ahead.

The Witness: We took 27 because it had been used in the prior case and we used it in this case in the original computations and that figure was later checked and agreed to in a conference with the company.

Commissioner Geiger: Now what Mr. Butler wants to know is, was this extra five miles, the difference between 22 and 27, pipe line behind the compressor station?

The Witness: I cannot answer that; it does give that effect to the total figure, however.

Commissioner Geiger: Put the next question.

By Mr. Butler:

Q. Didn't you tell the Commission in that case in your testimony, not only before the conference but after the

conference, that you had taken the mileages only back to the compressor stations except in that one instance?

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[fol. 2904] A. I would have to look at the testimony to see what I did say; I do not recall.

Q. Well, at least you testified correctly then, didn't you?

A. Well, you apparently read my testimony; I cannot say that.

Q. Oh, well, you were fresh then with all the circumstances and all the facts, weren't you?

A. I had been working at it at that time, yes, sir.

Q. Mr. Carter, in order to be fair in your allocation in the United case you found it necessary to consider the mileage beyond the State boundaries—mileages, 20, 65, 30, 110, in various directions; now, if I understand, that was because you believed that since the compressor was used to send gas not only to the boundary of the State of West Virginia, but also quite within other States, that mileage should be considered as a factor?

A. Not quite; that is not quite correct.

Q. Well, you state it rightly then?

A. A figure was used as an allocation figure and exhibits presented on that basis to reflect the distance that the compressor station pumped gas through lines not owned by The United Fuel Gas Company.

Q. Well, the reason was that you were using a West Virginia compressor to do service beyond the State?

A. That was——

Q. What was the basis of your——

A. That was the reasoning in that allocation computation, yes sir.

[fol. 2905] Q. Take the Wheeler Station, do you know how far in the Ohio Fuel system it sends gas under the pressures developed in the Wheeler Station?

A. That record is not available.

Q. What is that?

A. That record is not available.

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[fol. 2906] Q. What record?

A. Of how far the Wheeler compressor station sends gas.

Q. Do you mean to say as an expert that you cannot give the Commission any idea of how far that Wheeler Station sends gas under the compression there developed?

A. I mean to say this, that due to the commingling of gases and mixing of them in different lines it is not possible to tell the exact distance that gas from Wheeler may travel.

Q. Does any gas under the force of the Wheeler compressing station go up into the vicinity of Toledo or Maumee?

A. I do not know, but I imagine it does; you cannot tag B.T.U.'s or cubic feet of gas in a line that is used for several different purposes, and, to answer your question, it cannot be answered specifically.

Q. Do you think that is a fair answer for an expert, Mr. Carter?

A. Absolutely, yes.

Q. All right.

A. Those are facts.

Q. Do you mean to say that no gas from Wheeler goes up to Toledo?

A. I made no such statement.

Q. Do you mean to say that no considerable amount goes up there?

A. I would not make that kind of a statement at all.

Q. Well, what do you say about it?

A. Probably a considerable amount does go up there.

Q. What do you mean by "considerable"?

A. That is a problem; you don't know and you cannot find out, and that is why you cannot make an allocation that way.

Q. "Considerable" of some things is much, and "considerable" of another is not very much; I am trying to get your idea, Mr. Carter? Mine is of no consequence.

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[fol. 2907] A. Well, figures are not available as to how much of the gas compressed may go to the northwest.

Q. Did you try to get those figures?

A. I did.

Q. What did you call for when you tried to get those figures?

A. I asked if records were available to show how much gas at each different points and from where it came.

Q. And they said no?

A. They said no such records were available and told me why not.

Q. Well, didn't you get—try to get the records that they had?

A. I saw a great many of the records that they had, yes.

Q. Well, you did not see the ones that had been cast aside or lost or destroyed?

Mr. Turner: Objection. There is no such evidence in this case and we do not want that sort of an inference put in the papers.

Chairman Hopple: Objection sustained.

Mr. Butler: Well, it is in the record, if Your Honors please.

Mr. Turner: No, it is not; not at all.

Mr. Butler: The record will show it. Well, there is no reason now, if the Commission please, why, when it was stated here that records had been shoved aside—His Honor the Judge yesterday went into that and changed his question to suit your susceptibilities.

Chairman Hopple: There is, if I recall the testimony correctly, some evidence on the question of records having been destroyed after certain information had been compiled from those records into ledger books and things of that sort.

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[fol. 2908] Mr. Butler: Yes, and during the pendency of this action too.

Mr. Turner: No, sir.

Mr. Butler: Well, he said so.

The Witness: I beg your pardon.

Mr. Butler: All right, the record will show.

By Mr. Butler:

Q. Now, do you say that any gas from Wheeler station goes to the Indiana line?

A. I do not know; it may; there is no way of finding out the exact amount.

Q. Well, is there any way of determining whether any goes or not?

A. Well, the fact that gas is measured in Indiana would disclose the fact that some gas certainly does go there from somewhere.

Q. Oh, yes, it doesn't require much ability for that and that is not my question; I am talking about the Wheeler station gas.

A. And I am making this statement, that it is not possible to determine how much of the gas from the Wheeler station at any particular time goes to Indiana.

Q. Well, Mr. Carter, did you consider the amount of gas developed from the wells south of the latitude of Columbus?

A. Did I consider it in what way?

Q. The amount of gas that they yearly produce?

A. I have a general knowledge of how much gas they produce from their own wells.

Q. Well, I don't care whether it is their own wells or purchased gas; I am talking about Ohio gas.

A. As a separate and distinct item, no.

Q. Didn't you call for that?

A. You cannot get the amount of gas produced from the 4979 [fol. 2909] wells of the company accurately, because it is not measured.

Q. Can't you get it for a year?

A. It is not measured, no, sir; you can get an estimate of the total amount when you take the total sales and allow for purchases and make an estimate of how much they produced.

Q. Do you mean to say there is nothing available by which for the year you can fairly and definitely determine the amount of Ohio gas produced say south of the latitude of Columbus?

A. That is correct.

Q. All right, sir; and there is no way of telling what is produced in the northern district?

A. That is my understanding, it is not.

Q. Well, it is your "understanding"; did you go into the records or did somebody tell you that?

A. I attempted to find out if records were available as to that and I was informed there was no records available as to production from the different fields.

Q. No record showing the production of the individual wells?

A. That is right.

Q. And nothing showing the estimated production for the year; did they tell you all that?

A. As wells; there is no record, according to my information, as to the production from any individual well.

Q. Did they say that they had no estimate of the production, the yearly production, of individual wells?

A. I do not know as I asked that question of anybody; I do not recall that I did.

Q. You say that you did not ask that; now the truth is you just were not particularly interested in that, were you?

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[fol. 2910] A. That is not a correct statement of fact, sir.

Q. All right; where do you suppose this Wheeler gas goes; you are an expert and I am not; to what towns does it go?

A. It goes into the system and one day it may go one place and the next day some other place.

Q. Well, what is the one place one day and some other place the next day?

A. I do not know because that is your difficulty.

Q. Well, there are certain definite lines by which it is fed out, aren't there?

A. There is certain definite connections of different lines which makes it possible for the gas to intermingle from different points which makes it impossible to tell where the gas from any particular compressor station may go at any particular time.

[fol. 2911] Q. Doesn't this map in the Company's Exhibit 23 with the arrows show you the direction and the amounts?

A. The map has some arrows on it but when you go to reading some of the figures they may and may not be the actual gas from any particular station.

Q. If your map is true and correct in directions and in amounts, or substantially so, then what do you say to the Commission about what I have been asking?

A. I cannot assume that.

Q. Well, I am telling you to assume it.

A. I cannot, because that is not the fact.

Q. I am telling you to assume it; you are the expert.

A. I cannot assume something that is not the fact.

Q. And that is the best answer you can make to that?

A. That is the only answer possible to make.

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[fol. 2912] Q. Mr. Carter, suppose that before you had ever been invited to come to Columbus you had been presented with that map, Exhibit 23, and asked to allocate in

reference to those directions and those figures and to assume them to be true, what would you have said then?

Mr. Turner: Objection. Before any allocation was attempted by the City the testimony of the witness Phillips showed definitely that there was——

Commissioner Geiger: Mr. Turner——

Mr. Turner: Well, I want to make a statement outside of the hearing of the witness then; let us ask the witness to go out.

Commissioner Geiger: It is a very pertinent way to cross-examine the witness, to ask that, assuming certain facts are true; then what is your conclusion; that is what he is asking; assume that that map showed the correct flowage of gas and the direction in which it flowed, then what would he say about that; that is all that is necessary.

The Witness: If it did show the facts it might be possible to make some computations from part of it, and if an investigation discloses that the map was correct it might have been possible——

Commissioner Geiger: Who showed you that map first?

The Witness: I do not know.

Commissioner Geiger: Mr. Phillips?

The Witness: No, I believe Mr. Turner showed it to me first.

Commissioner Geiger: Did he tell you it was not correct when he showed it to you?

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[fol. 2912a] The Witness: He told me it was a map made up for rough estimating purposes and did not reflect all the facts, as I recall.

Commissioner Geiger: And thereupon you assumed that it was entirely worthless on that manner of allocation?

The Witness: Oh, no, I did not make that assumption at all; I checked up to find out what the situation was; I did not give Mr. Turner an answer last week at all; I gave him an answer this week.

Commissioner Geiger: Right at that point, how long did it take you in your examination of this testimony in order to prepare yourself for an expert witness in this case to determine that that map was not accurate enough for basing an estimate of mileage demand?

The Witness: May I answer this way? I worked Thursday and Friday of last week and Monday and Tuesday, and my exhibit was made up day before yesterday which reflected my final——

Commissioner Geiger: You do not answer the question; when did you first come to the conclusion that that map had not sufficient data to justify your conclusion; the first day you were here?

The Witness: No, sir.

Commisioner Geiger: The second day?

The Witness: I do not know; not until this week some time; I do not know just when.

Commissioner Geiger: Well, all right—wait a minute; you did come to the conclusion that it did not have enough accurate data on it before you started to make the exhibit for showing the allocation by the method to which you have testified?

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[fol. 2913] The Witness: Why, Mr. Commissioner, if I may answer that, I considered other maps and the records of the company——

Commissioner Geiger: Well, we don't care anything about that——

The Witness: Before I came to any conclusion.

Commissioner Geiger: We want to know when you first determined that that data furnished by the map was not sufficiently accurate to base a judgment upon it?

The Witness: I do not know.

Commissioner Geiger: All right; but it was some time between the day you got here and the date you started on making your other estimate?

The Witness: Well I cannot answer that question because I did not make a study with that thought in mind at all.

Commissioner Geiger: Oh, well, now try to get the thing in an easy and nice way; you did make an estimate of the allocation by the means to which you have testified?

The Witness: Yes.

Commissioner Geiger: When did you make that estimate?

The Witness: That was made up Wednesday of this week.

Commissioner Geiger: Did you make it up in one day?

The Witness: Yes, sir.

Commissioner Geiger: And did you use only one day to make it up and study the data connected with it?

The Witness: No.

Commissioner Geiger: How many days did it take you to study the data before making it up?

The Witness: I had been studying the data since last week.

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[fol. 2914] Commissioner Geiger: But you did not begin to study that data to make your explanation of the allocation that you have testified to until you had arrived at a conclusion that the other method by demand mileage could not be available here, is that right?

The Witness: No, that is not right.

Commissioner Geiger: All right; go ahead.

Mr. Turner: Now just a minute, if Your Honor please. This witness testified that he read Frank Phillips' testimony and Frank Phillips' testimony plainly states what the map was and it was never offered for the purpose of allocation.

Mr. Butler: No, that is right, it was not.

Mr. Turner: And you grab at something just as Blundon grabbed a map off the wall that was not for the purpose of allocation at all and used that date.

Commissioner Geiger: It does not make any difference what it was prepared for; the question is whether the information was correct or not correct.

Mr. Turner: No; the information may be generally correct to show directions, general directions, and one thing and another, as was thoroughly explained by Mr. Phillips on the stand.

Commissioner Geiger: All right; go ahead.

[fol. 2915] By Mr. Butler:

Q. Mr. Carter, in your West Virginia work and in your explanations thereof, I think you said many times that what you were after, as I read it this morning, was a practical allocation and that the exact niceties of computations were not essential to that kind of an allocation; do I quote you correctly?

A. I do not remember what I said.

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[fol. 2916] Q. Well, was that your theory?

A. I expect; I do not remember but I expect so.

Q. Well, you are the expert; you know the general thought and the methods that entered into your work there?

A. It is not possible to get all the figures in every case that you would like to have; that is true, of course.

Q. As I understand you, you read Phillips' testimony before you started into your further investigation in this case?

A. Before I started in a further investigation?

Q. Yes, that was my question.

A. I do not know what you mean by that question.

Q. Well, after you came into this case here upon Mr. Turner's invitation one of the very first things you did was to examine 23 and read Phillips' testimony?

A. No, I think I read Mr. Phillips' testimony about the second or third day.

Q. Now what did you do first?

A. I tried to find out what records were available of the operation of the plant; the interconnections of the lines and how the thing was handled as a whole; what records were available and how the records were kept, if any; where gas came from and where the field was located and how the field was handled; the different classes of wells and the different kinds of lines where the gas came from; I tried to find all the things that you would need to know before you can decide what kind of an allocation to make.

Q. What did you get that from?

A. I got that from examining the maps and reading some of the testimony and looking at the exhibits.

Q. What testimony?

A. Well, some of Mr. Blundon's testimony and some of the comments of the attorneys and some of Mr. Allens-

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[fol. 2917] worth's testimony.

Q. You had Exhibit 23 with you all the time?

A. I did not, no, sir.

Q. I thought it was one of the first things you saw?

A. I did not so testify.

Q. Well, how soon after you came here did you see 23?

A. I think I got 23, or part of it, on Friday afternoon, as I recall.

Q. And you came here when?

A. Thursday morning.

Q. Did you try to ascertain how much gas the Logan had taken out of Southern Ohio in its line before it was brought into the Ohio Fuel Gas line?

A. No, sir.

Q. You made no effort; did you try to ascertain how much gas the Northwestern had taken out of the Wheeler and other places, or Sugar Grove in Southern Ohio through that double pipe line up to Maumee before it was brought into this line?

A. No, sir; I did not.

Q. You did not ask anything about that?

A. No, because I was not trying to study the Logan or the Northwestern Company; I was trying to study the Ohio Fuel Gas as is.

Q. Well, wouldn't that have given you some memoranda upon which to base an intelligent judgment as to the amounts that were carried in those respective lines from this locality?

A. I doubt if it would.

Q. Why not?

A. Because of the interconnections of the system as it is operated at the time of this investigation.

Q. Well, what interconnections would have made any difficulty over west?

A. The interconnections between all your lines and the fact that you get gas from different directions makes a

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[fol. 2918] complication that you cannot break down and analyze from where your gas comes or find the length of travel of the gas, and that is an important element if you try to use a demand mileage.

Q. My dear Mr. Carter, I am talking about the Logan before it was brought in.

Mr. Turner: And he answered your question as asked.

Mr. Butler: I do not believe Mr. Carter would say that his answer referred to the time before the Logan was brought in to the Ohio Fuel Gas.

By Mr. Butler:

Q. You were speaking of the present system, weren't you?

A. That is all I have tried to analyze and I answered that several times.

Q. You and I understand each other, but I am asking you about the Logan running over to the Indiana line be-

fore it was made a part of The Ohio Fuel Gas Company's system, which did not occur until about the middle of 1929?

A. I understand this investigation is as of December 31st, 1929.

Q. I know, but I assume that you intelligently and honestly tried to get at the facts in the disposition of these gases?

A. I certainly did.

Commissioner Geiger: Let me ask you this, Mr. Carter; is all gas that flows through the pipes that belong to the United Fuel metered at some point somewhere?

The Witness: All gas, no; there is a small amount that is not; the majority of it is, however.

Commissioner Geiger: Substantially all metered?

The Witness: Substantially all metered, and that is why it is possible to do and make computations in the West

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[fol. 2919] Virginia situation that you cannot make here.

Commissioner Geiger: Now, it is never metered twice even though it may flow in different directions; if the gas passes through a meter at one time and is metered, it is measured finally as to the quantity of gas and the fact that it may flow back and forth through different pipe lines and in different directions never acquires it or permits it to be metered a second time?

The Witness: Are you talking about the West Virginia situation, your Honor?

Commissioner Geiger: No, the Ohio situation.

The Witness: No, the same gas may be metered more than once in the interconnections.

Commissioner Geiger: Well, do you mean to say that they maintain an extensive, and no doubt expensive, system of metering and by reason of the fact that some gas is metered twice they are unable to tell the correct amount of gas that passes through a meter?

Mr. Turner: Exception to the question.

The Witness: That is not what I mean to say, and that is not the situation.

Commissioner Geiger: Well, what I am trying to get at is this, there is a system of metering gas for the purpose of determining in a general way at least from what sources the gas comes; is that correct?

The Witness: No, sir, that is not correct. That is a part of the difficulty in this particular case.

Commissioner Geiger: Aren't the meters located on certain conveying lines?

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[fol. 2920] The Witness: The meters as a whole are located at the point of sale and not at the point of intermingling of lines or connection of line to line, and there is where you get into trouble.

Commissioner Geiger: So that you do not know when it passes through the meter what particular gas is being metered?

The Witness: That is exactly——

Commissioner Geiger: But you have no meters near the point of supply that would indicate to you how much gas goes from a certain group of wells to a certain territory—of gas producing ground?

The Witness: Well, they have meters, of course, on the lines from which they purchase gas in the various territories.

Commissioner Geiger: All right.

The Witness: From the wells—the wells belonging to some other parties and companies.

Commissioner Geiger: Well, then it is very easy, I assume, to determine how much gas is produced by their own wells when they take the total amount of gas produced as measured by the meters and subtract that which is purchased, and the balance is that which they produce themselves?

The Witness: Basing it on a year's performance they know how much they sell and they know how much they have bought from other companies, and allowing for transmission losses it is possible to estimate how much came from their gas fields, but not how much came from any particular field.

Commissioner Geiger: All right.

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[fol. 2921] By Mr. Butler:

Q. Mr. Carter, on these original sheets from which the photostats were taken, on Sheet 1, under "percent", down about the middle, there is a note which I wish you would

read; it is in red, and I sometimes can read it and sometimes I cannot.

A. There is a note in red on Sheet 1 which I tagged, as I understand it, 170-A. The note is this: "Note: No effect is here given to fact that other plants back of Cobb Station." Underneath that is "Henry Porter". I do not know whether that is Walbridge of Walgrove; it is mutilated.

Mr. Blundon: It must be Walbridge from the physical location of it.

Mr. Turner: Where is the "g"?

The Witness: I cannot make it out.

Mr. Blundon: It must be Walbridge from the way the property operates down there.

Mr. Butler: It looks like it; you and I do not care particularly which it is.

By Mr. Butler:

Q. What did that note mean?

A. That note meant that in so far as these particular figures used apparently did not carry in them any reflection

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[fol. 2922] that this station was backed up by other stations; that apparently is what it meant.

Q. Well, why didn't you give effect to the fact that it was backed up by other stations?

A. Well, perhaps I should have, to be frank about it.

Q. All right; possibly?

A. You are quizzing me on something that I might be quizzed on in another case, you understand.

Q. I think I have mentioned that fact to you, so we do not disagree about that, but nevertheless I have my data here.

A. All right.

Q. Well, now, are you telling the Commission that you should have gone back; is that what you are saying?

A. You have me between the devel and the sea; there might be another case. You are asking me to use something here and down there too; I would rather not answer it.

Q. All right.

Commissioner Bricker: That looks like West Virginia No. 1 to me.

The Witness: I do not follow you, Mr. Commissioner.

Commissioner Bricker: Where that is blotted out there on the negative looks like West Virginia No. 1.

The Witness: Well, it should not be; it is a name of a station and I think Mr. Blundon's comment that it is Walbridge is probably right.

Commissioner Bricker: Well, it is completely obliterated.

Mr. Turner: Our people think it is probably Walbridge; we cannot interpret Mr. Carter's work sheets here but we think that is what it means.

My Mr. Butler:

Q. Mr. Carter, your map, Company's Exhibit No. 167, 4997 [fol. 2923] did you draw that map?

A. 167, no, sir, I did not.

Q. Who is the father of that map?

A. I do not know.

Q. Where did you get it?

A. I got that at the office of the company here in Columbus.

Q. Well, did you adopt it as a true picture of the situation down there?

A. I did not adopt it; I looked at it and saw it.

Q. Well, do you repudiate it, Mr. Carter?

A. I have nothing to say about it; I did not have this map in the West Virginia case, if that is what you mean.

Q. Well, does this map represent all the lines that you allocated?

A. Why, no, because all the lines in the allocation took in all the transmission lines. As I understand this map simply shows your general and main connecting lines. I may be in error about that but that is just my conclusion.

Q. Well, really, do you think much of that map? You studied the United situation; do you say to the Commission that that is a fair presentation of the lines that you——

A. This map gives you at a glance the relative comparison of the general layout of the United Fuel as compared with a map of the Ohio Fuel and shows that this is a fairly simple situation when you compare it to the Ohio Fuel Gas situation.

Q. Well, it depends on who draws the map, of course; who showed this map to you first?

A. First?
Q. Yes, first?
A. I do not remember.
Q. Well, they heard——
A. I cannot remember—I just do not know, that is all. I have seen that over around the office of the company

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[fol. 2924] here in Columbus but who showed it to me first or whether I saw it on the table I do not recall.

Q. All right; well, how many lines, additional lines, should go on there to complete the lines that you allocated?

A. You will have to ask Mr. Blundon that because I did not make the appraisal or the map in the West Virginia case; I made the allocations.

Q. Well, I guess when I read your testimony maybe I will see how you got connected up with this map; maybe I am doing you an injustice; I thought that you adopted it.

A. I did not so state, no.

Q. All right.

A. It simply shows the comparative simplicity of the layout of the United Fuel.

Q. I did not catch that?

(Answer read.)

Q. Would that be so simple if all the lines were on it?

A. These lines here, as I recall, are the main transmission lines which are fed with shorter or smaller lines; these are the lines from which your dimensions and mileages were obtained or taken in the West Virginia case.

Q. You can draw maps, can't you, to a scale?

A. Yes.

Q. Did you try drawing a map of the Ohio Fuel system showing the main transmission lines and see how it would look?

A. No, sir, I did not.

Q. Why didn't you, eh?

A. Well, because I had other maps which showed the main lines and the interconnections and I did not think it was necessary.

Mr. Turner: I want to call the Commission's attention to the fact that I tried to explain the legend there and Your

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[fol. 2925] Honor said he could read it.

Commissioner Geiger: Well, if there is any mystery about the legend, of course explain it, but it looked very plain.

Mr. Turner: Well, I tried to explain it.

Commissioner Geiger: Well, you shall have the opportunity if you think it is not sufficiently explained by the map itself.

Mr. Turner: To show what the map was.

By Mr. Butler:

Q. How many compressor stations did you have in your allocation?

A. In West Virginia?

Q. Yes.

A. I am not sure whether Mr. Blundon in making his appraisal omitted any of the stations or not as property used and useful but if I count correctly there were 21 compressor stations in the United Fuel system.

Q. Well, I think there would only be 10 or 12 or 13 on this map?

A. Well, some of those stations were small stations and some are in Kentucky and some in West Virginia.

Q. Seven apparently; did Kenova belong to the United at the time you made your allocation?

A. No, that was not included in the appraisal of the property apparently.

Q. No; the sheets—those original sheets, again, please; take these various distances preceding the percents and the averages, who furnished you those figures?

A. Who furnished me the distances?

Q. Yes.

A. Originally the distances were furnished to me, or I got data, from Mr. Selman of Arthur Anderson & Company which showed a great many of the distances; the figures as shown on this sheet are figures that we agreed to in

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[fol. 2926] conference with representatives of the gas company.

Q. I am referring to these original pencil figures, columns of which you see 1, 2 and 3, and a number of them have not been changed at all; where did you get those?

A. These are not mileages in any shape or form; those are demands.

Q. Where did you get those?

A. Where did I get the demands?

Q. Yes.

A. The original demands I think I got from sheets that Mr. Blundon compiled and sent the copies to me from which I made prints and I used those. Mr. Blundon compiled that information for me at the request of the attorneys in the West Virginia case.

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[fol. 2927] Redirect examination:

Q. Mr. Butler has asked you what you did first when you got here and what you were given first; what you got from me; what was your assignment from me when you got here?

A. To make a demand mileage of the Ohio Fuel Gas property similar to the demand mileage that I made in the United Fuel Gas Company case in West Virginia.

Q. What instructions were given you?

A. That all records and any information or anyone in the company was at my service, to get the information to determine a fair demand mileage.

Q. What were your instructions regarding the acceptance or non-acceptance of the opinion of any engineer connected with the Columbia System at all in any way?

A. I was not to accept anybody's opinion.

[fol. 2928] Earl L. Carter testified on cross-examination as follows:

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[fol. 2928a] Q. Mr. Carter, the other day when you were about to answer a question of mine you observed that pos-

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[fol. 2929] sibly you ought not to answer it because you might be called into a law suit, another lawsuit, on the other side, or words to that effect; you meant this case of the United that is now before the Commission?

A. Will you read the original question to me? I do not recall the question.

Q. I don't know; I haven't the original question before me, Mr. Carter.

A. I think that is a correct statement, yes.

Q. Well, you know what you had in mind; I don't; I am asking you if that is the case you had in mind?

A. Yes.

Q. So you do expect to go back into that case?

A. Not to my knowledge, no, I do not.

Q. Well, you made inquiries in August about the possibility of your being further employed in that case and you were told that as far as the writer knew all the old people would be in the case?

Mr. Turner: Objection. There is no such testimony in this case.

Mr. Butler: Well, I am asking him if that is not true.

Q. You wrote to Mr. Blundon, didn't you, particularly about that thing? You have your letter file there; you have your copy of the letter to Blundon; here is the original, August 11th, 1931. That is your letter to him, isn't it?

A. That is the letter, yes.

Q. Yes; this was the letter; "August 11, 1931, Mr. J. Paul Blundon, Consulting Engineer, Keyser, West Virginia. Dear Mr. Blundon: I want to take this opportunity to thank you for your courtesy in telling me of the present situation regarding the United Fuel Gas case in West Vir-

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[fol. 2930] ginia. In your previous letter you spoke of probably seeing me within the next thirty days, and I am curious to know if there is a possibility of me securing additional employment in the United case when the matter is re-presented by the company. Any additional information regarding the case will be appreciated.

With best personal regards, I am, very truly yours, Earl L. Carter, Consulting Engineer."

Now you have Blundon's answer there in your files, have you not?

A. I have it, yes.

Q. Let me see it, please.

A. That is the letter.

Q. That was Blundon's answer?

A. That is right.

Mr. Butler: I will read it;

"Keyser, West Virginia.
August 17, 1931.

"Mr. Earl L. Carter, Consulting Engineer, Continental Bank Building, Indianapolis, Ind.

"DEAR 'CARTER': Kindly let me acknowledge receipt of your letter of August 11th, the answer to which has been delayed by my absence from the office.

"I have never heard of employment for the new case, if and when it is presented, discussed, but the Attorneys for the Protestants seem to be satisfied with their case, and I presume that the same advisors would be retained. The decision on the temporary rate has not, as yet, been handed down by the Commission, and I expect that the case will be immediately reopened after this decision is handed down.

"With kindest regards,

"Very truly yours, J. P. Blundon."

Q. Now this is your letter acknowledging the receipt of that letter from Blundon, is it not?

A. That is right.

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[fol. 2931] Mr. Butler: I will read this letter:

"August Eighteenth, 1931.

"Mr. J. P. Blundon, Consulting Engineer, Keyser, West Virginia.

"DEAR MR. BLUNDON: May I thank you for your courtesy of August 17th giving me the data on the United Fuel Gas case and the possibilities of further work for the attorneys in the case.

"With best personal regards, I am,

"Very truly yours, Earl L. Carter, Consulting Engineer."

Q. Mr. Carter, in Company's Exhibit 169, you conclude, if I understand you, that if the 65 miles were taken into Blundon's figures, that is the 65 miles back of the compressing station to the river, his figures for Columbus would have been 25 plus instead of 10; am I right about that?

A. I think that is substantially correct.

Q. Do you seriously mean that? Do you mean to tell this Commission now, Mr. Carter, that following Blundon's methods and Blundon's figures, if he had given consideration to that 65 miles between the river and the compressing station that he would have reached for Columbus the figure of 25 plus instead of the 10 that he did reach?

A. I don't think that is quite what I said, Mr. Butler.

Q. What did you say?

A. I said if you did consider the demands for Columbus as used by Mr. Blundon's, or as shown on Mr. Blundon's work sheet, and if you assumed that that demand travelled the additional distance from the river up to the Station, whi-h was 65 miles, and if you made that allowance in the demand mileage figure for Columbus and also in the total demand mileage figure, that the resultant figure would be 25.1395.

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[fol. 2932] Q. And this Exhibit 169 shows how you reached it?

A. Yes, it shows the figures.

Q. And in order to show your method we do not need any further work sheets of yours, do we?

A. This is a copy of the work sheet.

Q. Very good. Well, now, in taking that 65 miles into consideration you weighted that into the Columbus figures: didn't you?

A. I add it to the total that Mr. Blundon had originally used for the Columbus figures, yes.

Q. And did you weight it into the remainder of the State?

A. I add it to the total of the State, yes.

Q. And you say you got 25?

A. If my computations are correct, that is what I get, what my figures show.

Q. I am just putting up to you the simple proposition now.

A. Yes.

Q. Did you put that 65 miles on any other users or user that Columbus?

A. No, sir, I did not.

Q. Why not?

A. Because I was attempting to show what effect such a procedure would have on the Columbus figure by changing the one and only figure.

Q. Well, how can you use Mr. Blundon's method, and say to this Commission you used Blundon's method, when in considering that 65 miles you considered it only in reference to Columbus?

A. I made some computations to show the fallacy of trying to do what Mr. Blundon attempted to do, and this figure shows how fallacious that the thing is.

Q. Well, now, you use Mr. Blundon's figure, if you please, Mr. Carter, and take your 65 miles and use it as you did other lines and weight it into Columbus and weight it into

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[fol. 2933] the rest of the State and tell us what your conclusion is; let us have your figures on that.

A. That cannot be done.

Q. Cannot be done under Blundon's method?

A. Well, if you assume—if you make assumptions for everything, you might make some computations, but you cannot, in fact, figure it, because you cannot get the facts to figure it with.

Q. You were talking about Mr. Blundon's methods and theories. Now do you mean to say to this Commission that you cannot do that using the methods that Blundon used and tell the Commission what difference it would make if you used that extra 65 miles and weighted it in the proper part to Columbus and the proper part to the rest of the cities and communities?

A. Well, the 65 miles doesn't fit all the other communities and it is not possible to get the distances the gas travels and I said the other day several times, over and over, that it is not possible, in my opinion, to make a demand mileage because you cannot get the distances the gas traveled.

Commissioner Bricker: Let me get this straight. All you are asking is that he extend his transmission system from the compressor station to the point at the Ohio River and distribute that among the whole State on the mileage basis?

Mr. Butler: According to Blundon's methods, yes.

Commissioner Bricker: That is the demand mileage basis?

The Witness: That cannot be done.

Q. Why not?

A. Because Mr. Blundon assumed in a great many of his delivery points from other than Wheeler Station, and I

have made a computation showing the effect of changing the distance from Wheeler Station to Columbus back to the river.

Q. Mr. Carter, you just used a method that you thought 5014
[fol. 2934] would produce a great big figure as contrasted to his?

A. That is not a correct statement.

Q. Do you think it fair as an expert to present to this Commission that study, pretending that if Blundon had taken that in he would have reached 25 per cent instead of 10 per cent? You can answer that yes or no. I am asking you whether you think it is fair or not.

A. The exhibit is absolutely fair for what it was presented for and for what it was testified to.

Q. What—to mislead the Commission? Is that what it was presented for?

A. It is not to mislead; it is simply to show the fallacy of trying to figure a demand mileage for Columbus; I did not testify that the 25 per cent was a proper per cent to allocate to Columbus in any way, shape or form.

Q. But you did say, didn't you, or didn't you try to say to the Commission that if Blundon, using his methods, had taken into consideration the 65 miles he would have reached that 25 per cent instead of 10?

A. I made no such statement as that at all.

Q. All right. Mr. Carter, in making your study here were you shown exhibits that showed the number of wells in each county?

A. Was I shown an exhibit showing the number of wells in each county?

Q. Yes, of The Ohio Fuel Gas Company?

A. No, I do not recall that I was.

Q. Wouldn't that have aided you in determining what source gas came from?

A. No, it would not.

Q. It would not. Especially if you had had the flow of those wells, calculated daily production?

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[fol. 2935] A. Calculated and actual may be quite different.

Q. I suppose that for once I can agree with you, sir.

A. Thank you, sir.

Q. Now those things would not have meant anything to you?

A. In the light of the other facts as to the operating condition that would not have any very great weight one way or the other, as I said.

Q. Very great weight?

A. If any.

Q. Well, if any; you still are shy.

A. May I see the exhibit so I will know more what you are asking me about?

Q. I have some exhibits here that were taken out, but this one I am showing you; I am wondering what the very able gentlemen for the company showed you when you were making your study; I am not asking you to pass upon my exhibits.

A. Thank you.

Q. Doesn't it matter to you how much Ohio gas came from the area north of Columbus or how much south of Columbus?

A. Sure it matters.

Q. Well, did you find out how much?

A. I attempted to find out and found that the gas was not measured and for that reason it was not possible to get the facts as to how much gas came from any one field or all the fields.

Q. Do you mean to tell this Commission that after a thorough inquiry of the representatives of the Ohio Fuel Gas Company and examination of their books that you could not fairly and decently and honestly estimate the amount of gas that came from this southern field between here and the river and from the rest of the State?

A. The figures, the measurements and the facts are not such that you can get the production by days from any

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[fol. 2936] field or for any section or any group. An estimate is made for the total year production from all the wells by a matter of elimination, as I understand the situation.

Q. Did you examine this map that was a part of Exhibit 23? I think you and I compare.

A. Yes, Mr. Butler.

Q. That is the same one?

A. The same one, yes, sir.

Q. Same map; now you saw how much gas on that day came into Wheeler or went out of Wheeler, didn't you?

A. The map has some figures on it and some arrows which point certain directions.

Mr. Butler: Will you read the gentleman my question? Maybe we can get down to business.

(Question read.)

Mr. Butler: That is a specific question, Mr. Carter.

Commissioner Geiger: You can answer that yes or no.

The Witness: I think I will answer that No.

Q. Not indicated on that map?

A. Well, there are some figures indicated which I tried to answer you a moment ago and you would not let me.

Q. All right, if that is your answer. Do you find any figures indicating the amounts that came from West Virginia on that day?

A. There are some figures for possibly '29 and some figures for '30, if that answers, yes.

Q. The dotted ones on January 13th, 1930, shows them, doesn't it?

A. Yes, and there is a dotted figure I think for each of the connections there.

Q. And also shows the gas on that day from the different fields there in Sourthern Ohio, doesn't it?

A. I would say no to that question; it shows some figures

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[fol. 2937] which you are reading into the record as to the amount of gas; I am not conceding that at all.

Q. Why aren't you conceding it? Because it hurts your case?

A. No, sir, because the figures are not the facts. The figures are merely indications of approximations and do not reflect the actual gas flowing.

Q. Don't you know, didn't you go to enough trouble to take his estimate of the Wheeler gas and ascertain that he approximately showed the disposition of every cubic foot of it on that day?

A. No.

Q. Didn't you go to that trouble?

A. I did not.

Q. Well, then why do you say, why do you tell the Commission, you who seem to know so little about it that those figures don't mean anything to you?

Mr. Turner: Why the argument? Ask the question?

Mr. Butler: I am asking questions.

Mr. Turner: Well, we object to the form of the question.

Commissioner Geiger: I think it is proper cross-examination.

Mr. Turner: Note an exception.

The Witness: Will you read the question, please?

(Question read.)

The Witness: Because the figures and investigation that I made regarding the operation of the plant, regarding this particular map, gave me the information that these were pure indications and not actual readings, and further than that gasses are intermingled, the lines are interconnected, and you cannot get the distances that the gas travels; and with those fundamental facts in mind it is not necessary to

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[fol. 2938] waste any time trying to add up on one side of the map to see that they check with the other side of the map. If you made a map for approximate purposes they should check out, of course.

Q. Do you know who made those figures and put them there?

A. It is my understanding that the figures and estimates were made either by Mr. Phillips or his department. Who put them on the map I do not know.

Q. Do you know something of Phillips' work with this company?

A. Yes, I think I know a little about it.

Q. Well, do you assume, with your limited knowledge, to tell this Commission that you have a faculty of better estimating the things that occurred on that day than Phillips, who had spent years with this Company?

A. Mr. Butler, I have not even had such a foolish thought as that, and would not for a minute try to indicate to this Commission that I knew more about it than Mr. Phillips.

Q. Well, then why——

A. I ascertained from Mr. Phillips what the figures on this map were and the purpose of making them and they are

not made, they do not represent, actual measured figures, and since they do not, you cannot use them for the purpose you are trying to make me use them.

Q. I think you would assume when Mr. Phillips made those figures he was trying to portray the truth; you do not doubt that, do you?

A. Portray the truth for a certain purpose, I do not doubt that, no.

Q. I thought the truth was good for any purpose; I did not know that the truth varied for the use that you were going to make of it.

A. Well, the truth does*t* not, and I have not so testified, that I have made any variation in it; I have testified that

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[fol. 2939] Mr. Phillips made these for purely estimating purposes and did not represent actual measured demand or consumptions.

Q. Well, you just did not base any calculation upon those figures or those directions or those totals or those deliveries?

A. That is right, because——

Q. You just ignored that map?

A. May I finish my answer to that question? That is right, because I was trying to get the facts as to the actual operation and as to the flow of the gas and the distances of the gas.

Q. Yes, sir. Well, Mr. Carter, if I understand you, if the Ohio Fuel Gas got all of its gas from West Virginia, you would not have any difficulty about allocations, would you?

A. May I ask a question to see if I understand your question, please?

Q. Yes, surely.

A. Do you mean if all the compressor stations as in the plant at the present time were not there?

Q. I do not know how many they would need but I am putting it a little differently.

A. I am afraid I do not understand your question.

Q. I think you will if you are patient; I know I am a layman and you are an expert—that the twain shall never meet.

Mr. Turner: Oh, you were on the stand.

Q. This is it; assume that the Ohio Fuel Gas was furnishing the same communities and the same companies that it is furnishing today and the same amounts, but that all of its gas came from West Virginia, would there be any difficulty about allocation under those conditions?

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[fol. 2940] A. I will have to ask you one further question; are you assuming an interconnected system as they have it now?

Q. You can just connect it to your heart's content; I do not care how many crossovers or cutovers or cutouts; you can put th-m all in and add to your grid all you please.

A. I can answer the question now.

Q. Yes?

A. The question is, would there be any difficulty in allocation?

Q. Yes?

A. There would be, yes.

Q. Could you do it?

A. Probably.

Q. What method would you use?

A. Depend on what the facts are under that kind of operating conditions; you come right back to the old fundamental principle again, what the facts are.

Q. Do you mean to tell this Commission that if all the gas for all of this big United came from West Virginia through those three pipe lines that you could not make a decent, honorable——

A. You are leaving out of the picture entirely the fact that part of the gas comes one way and goes to a certain point and then splits and goes to some other direction. You have got all those facts to bear in mind.

Q. My dear Mr. Carter, if it all came from West Virginia do you suppose that it would go up to the lake and wander around and come back to Wheeler; have you got some such idea as that?

A. Oh, no, of course not.

Q. What kind of an idea have you got?

A. I mean this, you asked me to assume the interconnections as are; Wheeler is connected to Treat; Wheeler is connected to Columbus; Treat is connected to Columbus;

your gas might go from Wheeler to Treat and then to
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[fol. 2941] Columbus, as it does do now, as I understand. If you are going to use the demand mileage you would have to have a part of your gas going one distance, another part of your gas going another distance, even though it might all originally start in West Virginia, and you have got to know all the facts before you can decently make an allocation.

Q. Down in West Virginia you did not have daily readings down there; some of them were monthly, weren't they?

A. We had daily readings on substantially all the gas.

Q. Watch out.

A. On substantially all the gas.

Q. You know what you are testifying to? Your testimony is here; now you did have a number where you did not have daily readings, didn't you?

A. We had some, yes.

Q. What do you mean by some?

A. As to volume of gas, a very small part; as to number of users, a comparatively small part.

Q. How many different places or communities or stations; can you call them by number?

A. In the Charleston Division we had a measured—if I may answer you this way—we had a measured average of—average used in my allocati-n, of 32,734, and an unmetered, which is an estimate, of 4672, which is substantially one to eight.

In the Huntington Division we had an average of Huntington of 18,214, of Williamson 3037, of unmetered 4975, and of industrial, which was metered, 486, or a total of less than 5000 out of substantially 27,000, which is less than one to five.

In the Spencer Division, the unmetered was 2386, the City of Spencer was 1184, the industrial was 159, or a total
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[fol. 2942] of 3729, where the unmetered in that particular case is about 60 per cent of the total.

But for the wholesale business—by the way, to give you a comparison, the total retail business in West Virginia was 67,847; the wholesale business, which was all measured, was 168,393; the total West Virginia business, the

average of the demand used, was 236,240. Those figures are all M cubic feet.

Mr. Turner: And measured?

The Witness: Yes, 168,393 was measured.

The Kentucky, there was 9691 actual measured; the unmetered was 2562; industrial 7821, which was metered, making there a total of 20,000 plus, of which 2562, or about one-to eight again, was unmetered.

Q. Well, Mr. Carter——

Mr. Turner: Let him finish, Mr. Butler.

Mr. Butler: Well, I want as he goes along—you've been reading about metered gas——

Mr. Turner: And unmetered.

The Witness: I am reading the total gas used and demand.

Mr. Butler: But some of the meters were read not daily but monthly; I did not ask the difference between metered and unmetered, giving a pleasant lot of figures——

Mr. Turner: We at this table certainly thought you undertook to ask that.

Mr. Butler: Oh, no, I was asking about the fact that all of his meter readings were not daily; some of them were monthly.

Mr. Turner: Mr. Butler, you slid away from that and

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[fol. 2943] asked him some other questions. Mr. Calland and I are clear on it.

Mr. Huffman: The record will speak for itself.

Mr. Turner: Oh, yes, the record will speak for itself.

The Witness: Shall I go ahead?

Q. Well, I don't want the difference between metered and unmetered; I did not ask that.

A. I made this statement at the beginning, that substantially all of the gas used in his West Virginia demand computations was based on daily meter readings. Now a few of them were not; some of them were estimated—a few.

Q. Exactly.

A. And I am giving you the comparative consumptions or demands of actually measured on a daily base with the unmetered.

Q. But you are drawing the line between unmetered and metered; I was wanting to know the line of demarcation in your meters between daily and weekly and monthly?

A. Well, as I said a moment ago, practically all of the meters or the readings were daily readings.

Q. And I asked you then for the communities or stations that were not; not figures, but stations, communities, places?

A. The unmetered in your Charleston Division cover——

Q. I am not asking that.

By Commissioner Bricker:

Q. Just a minute; maybe we can clear it up. You mean by "unmetered" that it was metered on a monthly basis and an actual estimate made of your daily demand?

The Witness: No.

Mr. Butler: You see, he just refuses to——

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[fol. 2944] Mr. Turner: No, he does not refuse to answer. If he had not been interrupted he would have answered it.

Commissioner Geiger: One at a time, Gentlemen. The reporter cannot get you all at once.

Mr. Turner: If you will get in the thread of his answer you will find he is answering it.

Mr. Butler: I think Mr. Turner would be happier if he could take the witness stand.

Mr. Turner: No, he would not at all; I am glad to have you up against a stone wall once in awhile—a man that knows something.

Mr. Butler: I am glad you see what this is.

Mr. Turner: He has not finished answering Commissioner Bricker.

By Mr. Butler:

Q. Mr. Carter, let me ask just once more——

Mr. Turner: May we have the answer to Commissioner Bricker's question finished?

The Witness: I will have to ask the reporter to read it to me.

(Previous question and answer read as follows: "Q. By Commissioner Bricker: Just a minute; maybe we can clear it up. You mean by 'unmetered' that it was metered on monthly basis and an actual estimate made of your daily demand?" "The Witness: No.")

The Witness: That is not quite what was done.

By Mr. Butler:

Q. My question—this is the last time I shall put it—had reference to your metered measurements, and you said to me—I asked you about whether they were daily or weekly

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[fol. 2945] or monthly, longer periods; you said the very large amount of it—I am trying to do justice to you—was daily; then I said tell me the communities, the places, the stations, where the readings were longer than a day; now that is all I have asked you; if you cannot give it, I shall pass on.

A. I will see if I can find anything to give it to you, Mr. Butler. I have in the large sheet the industrial under Spencer Division, if you will refer to the large sheet which you have in front of you, Mr. Butler. In the Spencer Division you will notice the "Industrial, 159", over in the average of the daily demands, which is a weekly reading. That is, I had better answer this way, the chart or the meter was a weekly reading; you notice that is a very insignificant portion of the total; I do not seem to have the information as to the industrial, under the Huntington Division, which amounts to 486, which again is an insignificant part of the total. I think without exception those are the only two on which anything but a daily chart was used, with the exception of the amounts indicated under "Unmetered."

Q. Some of the unmetered you would say are fairly respectable in size?

A. Well; they are——

Q. Well, they speak for themselves?

A. They speak for themselves and when you compare it to the total it is only a very small part of the total; you have got 282,000 plus in the total and a figure of four or five thousand is a small part of that.

Mr. Butler: Gentlemen have furnished us with new photostats of their Exhibit 170-A and B; these that they now furnish us show the changes in color because there were two revisions, red referring to one revision and green re-

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[fol. 2946] ferring to another. Have you another copy out of which we may make an exhibit?

Mr. Turner: We gave you two; her- is another one.

Mr. Butler: Mr. Turner, do you object to these going in—then they will be all together—as Company's Exhibits 170-C and D?

Mr. Turner: No, no.

Mr. Butler: They will be together; that would be the better way.

Mr. Turner: Company Exhibit 170-C and D?

Mr. Butler: Yes.

Mr. Turner: You are sure of the number, are you?

Mr. Butler: When Mr. Calland and Mr. Ruffman agree there isn't much room for dispute.

And thereupon the documents last above referred to were offered and admitted in evidence on behalf of The Columbus Gas & Fuel Company and are herewith submitted and

Mr. Turner: Company Exhibit 170-C and D?

Q. Mr. Carter, having reference to your work papers, which are Company's Exhibits 170-A, B, C and D, I notice that your transmission lines, under "Distance of transmission in miles for average load", never end with a decimal, with a fraction?

A. That is right, they do not.

Q. That was by design, was it not, to eliminate fractions?

A. No, that was not the purpose.

Q. Just worked out that way, or don't you know how it worked out?

A. Yes, I think I know how it was worked out.

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[fol. 2947] Q. I thought you took these figures from some one?

A. The figures shown on here are the final figures agreed to with the representatives of the company working in the offices at Charleston. Some of them are the same figures that were used, copied from Mr. Selman, of Arthur Anderson & Company, as I testified to the other day. They are round figured to give the approximate distance of travel of the gas.

Q. Well, I am referring now to the figures in that column on those exhibits that were put there before you had any conference, the original figures, apparently in pencil. I think they show in pencil on your original.

A. They are all in pencil, Mr. Butler; the figures are all in pencil.

Q. Well, I refer not to the green, not to the red; no green on that column; they are simply red; but I refer to the originals. Now those figures, if I understand, were given to you?

A. I got a part of those figures from Mr. Selman and he in turn had gotten those from Mr. Hitchman, as I testified to last week; a part of the figures were judgment figures. The distance for Huntington was an over-all—that was an original figure too, by the way—average or round figures were used in all the cases.

Q. Yes, average or round figures.

A. In no case are there any decimals in any of the figures as to mileages.

Q. Well, what I am getting at, Mr. Carter, you do not mean to say that the actual distances did not contain fractions of miles?

A. Actual distances of what, Mr. Butler, please?

Q. Between the various points?

A. I tried to say the other day that the 27 miles—taking the first one, for Charleston—was a figure that was used

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[fol. 2948] and which attempted to reflect the average length of travel of the gas as measured at the Charleston and as shown in the demand of 32,734, as shown in the column headed "Average of daily demands." You cannot tell from which particular well or which group of wells or what particular distances that gas did travel, but 27 was used as an average over-all distance.

Q. Well, have you there the exact mileage or feet from Clendenin to Charleston?

A. May I ask you to tell me which line you want? There are two or three different lines going from Walgrove down to Charleston.

Q. I am asking you the line you considered, the distance from Clendenin to Charleston?

A. The figure approximately 22 miles I think I used the other day. You take the different lines that go down there——

Q. Have you got the feet there? I am asking you for feet.

A. In the 22? No, I haven't the feet in that. I can give you the feet in some of the different lines.

Q. No, but I am asking you if you know the feet in that line, the feet in line C?

A. From Walgrove to Bowers metering station, 8 inch pipe, 67,225 feet, or approximately 12.72 miles.

Q. Where did you get those figures; where did you get them?

A. Where did I get them? Those are some figures that I got from Mr. Blundon a couple years ago substantially.

Q. Oh, you did consult with Blundon?

A. Why, sure, I got a lot of information from Blundon originally.

Q. Well, don't you know that that difference there of Charleston came from the fact you had a mileage up to the city and then that there were various distances to the

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[fol. 2949] gates around the city; do you know that or not?

A. Will you read the question, please?

(Question read.)

A. That is not a fact.

Q. That is not a fact. You say that at the Cobb Station the field was just three-quarters of a mile back of it?

A. No, I did not say that.

Q. Well, you said, in stating here, you said behind the Cobb Station to the field was three-quarters of a mile?

A. I said there was an allowance of three-quarters of a mile, I think, if you read my testimony.

Q. An allowance?

A. Yes.

Q. How far was the field back?

A. Well, part of the gas at Cobb comes in from Porter, part from Henry, some from Walgrove; it all enters into the field.

Q. How far are those fields back from Cobb Station?

A. Some of them are between five and ten miles.

Q. Yes; some of them are further?

A. Well, they might be more than ten, yes.

Q. Might be, but are they?

A. I have not measured them. I cannot answer that specifically. I am looking at the map now.

Q. And yet in the face of the distance to those fields you seriously tell this Commission that in making up this total you took three-quarters of a mile back of Cobb?

A. I did not say that.

Q. To the field?
A. I did not say that.
Q. How?
A. I did not say that.
Q. Here is what you said——

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[fol. 2950] Mr. Turner: What page?
Mr. Butler: I am reading from 4868.

"Ques. Now take Huntington, the figure of 65 miles there."

"Ans. Huntington was made up, a total distance of 65 miles."

"Ques. How was that made up, if you know?"

"Ans. I think the same situation, so far as the original figure in that case is concerned, as in the Charleston case, and that can be broken down into two figures, from Cobb Station to Huntington approximately 64¼ miles and behind the Cobb Station to the field was three-quarters of a mile."

Mr. Carter, didn't you know that the vast majority of these numbers were in either tens or fives and that not a single one of them carried a fraction, and don't you know you simply took 65 instead of that 64¼?

A. I think I testified the other day, and the facts are these, that we used for that particular one that you just called attention to, a distance of 65 miles, and that that could be broken up into two figures that you have just read. The figure of 65 miles was an average figure and a figure for mileages used for the purposes of making the allocation. I have not said it was the actual distance from one place to another; it is an agreed figure, and that figure can be broken up into those two parts.

Q. Well, you never have taken the exact distances and yourself tried to work out these, have you?
A. Yes, some of them.
Q. What one?
A. Take Charleston, for instance.
Q. Oh, you worked that out, did you?
A. I made some figures to check that distance; the Line D, which is a 10 inch line that goes from Charleston back past Walgrove, back up near Clendenin and away back

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[fol. 2951] up into the field, away behind Walgrove, the total length of the 10 inch pipe as shown in the Ford, Bacon & Davis appraisal in the United Fuel Gas case, as I recall it, was 122,474 feet; that amounts to 23.2 miles; and that is taking it away behind the Walgrove, away into the middle of the field. The distance used was an average figure of 27 miles, which I have testified two or three times was a figure taken and used as the average.

Q. When you came to a city with a certain mileage and then if there were pipes running to the various gates of the city did you take that into consideration in determining the total distance?

A. I think that was talked about and discussed some when we were using these original miles, I recall, yes.

Q. Take Williamson; you say that is 16 miles and you break it down, 14¼ from Kermit to Williamson, and then you get 1¾ miles from Kermit to the field?

A. The distance used in the allocation data was 16 miles.

Q. Yes, I know.

A. And I think I testified the other day that that could be broken down into two parts.

Q. Oh—could be; was it?

Mr. Turner: Could you let him answer?

Mr. Butler: He has answered it.

Mr. Turner: He was in the midst of his answer.

Mr. Butler: All right.

The Witness: It could be broken down into two parts, one of those being 14¼ miles, the measured distance from Kermit to Williamson is 15.7 miles and that instead of station, which puts you out into somewhere in the field.

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[fol. 2952] Q. Don't you know that the distance from Kermit to Williamson is 13.7 miles and that instead of using the fraction they simply used 16 miles?

A. The distance is what?

Q. 15.7.

A. 15.7?

Q. Yes. Mr. Carter, I want to go to The Ohio Fuel Gas Company; as I understand in West Virginia you allowed 110 miles for that?

A. Ohio Fuel Gas?

Q. Yes.

A. No, there was a figure of 46 miles and a figure 111 miles used.

Q. 46 and 65, wasn't it?

A. 46 and 65 makes 111.

Q. Well, all right, 111 then instead of 110. I think I was a mile behind. Now you divide that up so that you said that there was an allowance of 4.49 miles from Lewis to the field; did you really mean that?

A. I think I said there was 4.45 miles, or the equivalent of 4.45 miles, back into the field.

Q. Well, here is what you said: "It can be broken down; the same explanation as to the original source of figures applies as applies to Charleston, and that can be broken down into three parts, distance of Ravenswood to Spencer, or the State Line, of 24.96 miles, and Spencer to Lewis Station of 16.55 miles, and Lewis to the field of 4.49 miles, which makes a total of 46 miles."

A. That is right.

Q. You still say that in that 111 miles there was 4.49 allowed from Lewis back to the field?

A. I made this statement, that the 46 could be broken down into those three parts; the additional 65 miles was the distance between——

Q. Forget the 65; we will — to that presently; I am talking about this 4.49, and yet I do not want to be unfair;

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[fol. 2953] let us get at it a little differently; of that 111, 65 was from Ravenswood up to Sugar Grove, wasn't it?

A. That is right.

Q. Running into Ohio; so that left 46 miles. Now you and I agree about the 65 miles; now, 46, I have read to you how you broke it up.

A. I think I testified in direct testimony the other day that the figure used was a 46 mile figure and that could be broken down into those three figures, 24.96, 16.55 and 4.49.

Q. You could break it into any combination, but what I mean is, was it made up with reference to any distance from Lewis to the field?

A. The figure originally was, yes. The Company had its breakdown at the time of our meetings and their breakdown, as I understand their figures, did allow for distances back behind the compressor station. We used a 46 figure.

Q. Well, aren't you just wholly mistaken about that now?

A. No, I am not wholly mistaken.

Q. Let me read to you from your testimony in the United Case.

A. Some of that I have read since last Friday and it is——

Q. All right; well, I will read it to you:

"Ques. Now have you in the case of the Spencer deliveries to the Ohio Fuel Gas Company, you have not only allowed for 46 miles to the point of junction between the Ohio Fuel and the United Fuel Gas Company, but you have added 65 miles to that?"

Then there is some discussion, and——

A. What page is that, please, Mr. Butler?

Q. Well, I am reading from page 4513; it starts near the bottom. The answer was:

"Ans. To Sugar Grove, yes." I am omitting a few ques-

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[fol. 2954] tions there.

"Ques. And the distance between these two stations is 111 miles?"

"Ans. Yes, sir, the mileage of 46 that Mr. Hightower and I used took into consideration that provision that the Spencer Station"—probably he means that "at the Spencer Station"—"you have the Lewis Station, and being 22 miles apart we put on half of that distance as a fair allowance to put on the Ohio Fuel portion of the load."

"Q. So the distance between Spencer and Sugar Grove instead of being 110 miles, is 100 miles isn't it?"

"A. 101 miles, yes, sir."

"Q. Isn't it exactly 100 miles?"

"A. Well, take off 11, yes, sir, that is right."

Now let me stop there. From Spencer to Sugar Grove was 100 miles, wasn't it?

A. Spencer to Sugar Grove, no, I don't believe that is right when you get the figures together.

Q. Well, when have you been getting these figures together, when you testified down there or since you have been preparing for this case up here?

A. Well, I have been trying to analyze some of these figures to see if it meant anything or not; tie the figures in to see if they were correct or not.

Q. Don't you know now that there is no question about from Ravenswood to Sugar Grove, 65 miles; you don't dispute that?

A. That is the best information I have.

Q. And don't you know that if you take the feet from Spencer to Ravenswood you get 35.1 miles, and you call it 35?

A. Will you read that question, please?

Q. If you take the feet distance from Spencer to Ravenswood and convert it into miles, you get 35.1?

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[fol. 2955] A. You do not get 35.1.

Q. All right; I thought so at the time you testified.

A. Yes, sir, and I found I was in error in some of those figures too.

Q. Oh, you find you were in error?

A. I make mistakes like other people.

Q. Do you happen to know how many feet it is from Spencer to Ravenswood?

A. Line E, which is an 18 inch line, is 127,544 feet, or 24.2 miles, if I figure it correctly; approximately that, at least.

Q. All right, I should say you were in error there.

A. I must have been, yes.

Q. Then let me go on:

"Ques. So the distance between Spencer and Sugar Grove instead of being 111 miles is 100 miles, isn't it?"

"Ans. 101 miles, yes, sir."

"Ques. Isn't it exactly 100 miles?"

"—. Well, take off 11, yes, sir, that is right."

"Ques. Now then the distance between Spencer and Sugar Grove is 100 miles instead of 111, isn't that true?"

"Ans. That would be the figure; we have used that distance, yes, sir."

"Ques. And then you figured the Spencer Station was doing the work for half the distance between there and the Lewis Station?"

"Ans. That is correct. You can put it that way. I allowed there as mileage half the distance between the two."

—. And that distance was 22 miles, wasn't it?

A. Between Spencer and Lewis?

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[fol. 2956] Q. Yes.

A. No, it is not 22 miles.

Q. All right; how did you get the 11 then?

A. I tried to say a bit ago that I made some errors in some of my computations, I find in reading this testimony over since last Friday.

Q. Where have you gotten these new figures?

A. Gotten them from some information that I got from Mr. Blundon a couple of years ago as to lengths of different lines.

Q. All right. Now you say between Spencer and Ravenswood only how many feet were figured in?

A. Between Spencer and Ravenswood?

Q. Yes.

A. I hope a figure here of some computations I made yesterday showing 127,544 feet as the 18 inch pipe in Line E.

Q. Well, is there any other line?

A. Now to my knowledge; there may be some difference there; I may be slightly off in that particular computation.

Q. What do you mean by "slightly off"; as much as 50 or 60 thousand feet?

A. Oh, no; it doesn't quite check in with the actual measurements as made by the company.

Q. All right. So you and Mr. Hightower were just wrong about that?

A. Well, I would not say Mr. Hightower was.

Q. Well, you said you agreed you said the mileage of 46——

Mr. Turner: Let him answer.

The Witness: I have tried to say two or three times before that since reading this testimony over since last Friday I find some apparent discrepancies in it.

Q. I should say you did between that and what you are 5037

[fol. 2957] testifying to now.

A. No, I would not say that. I do say we used certain mileages and those mileages have not been changed in any way shape or form, and some of my detailed testimony in the United Fuel case apparently does not make any sense in the light of the fact of the figures we did use and were using in the computations.

Q. It makes perfect sense in your testimony in the United case; what is wrong with it?

A. It does not fit the distances as actually are, that is what is wrong with it.

Q. It does not fit what you have testified to here, does it; that is the point, isn't it?

A. It does not fit this and it does not fit the actual facts when you go back and try to check what the actual distances are.

Q. Listen to this answer, on Page 4514: "Yes, sir, the mileage of 40 that Mr. Hightower and I used took into consideration that provision that the Spencer Station you have the Lewis Station, and being 22 miles apart we put on half of that mileage as a fair allowance to put on the Ohio Fuel portion of the load." Now what have to you to say about it?

A. The answer I just made, that there are apparently some discrepancies in that testimony and that is one of them, because it is not borne out when you go to check back the actual measurements of the transmission pipe between the various points there in discussion and it cannot be right when the figures and the facts are different.

Q. All right, sir, I will leave it with you. Now the Hope Natural Gas, you worked out a very great distance from the Cobb Station to field, three-quarters of a mile—three-quarters of a mile; do you have the distance in feet from

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[fol. 2958] Cobb Station to Cedarville?

A. Yes, sir.

Q. Give it?

A. 207,174 feet of 20 inch pipe.

Q. I am a little wrong—about a thousand.

A. You have some other lines that do not belong in the transmission.

Q. I have 208,101, which other experts tell us is correct; you figure out 39.25 miles; my figures give 39.40 miles. Now don't you know that, following the method used, instead of carrying fraction they simply made it 40 miles and there was no thought of using three-quarters of a mile back to the field or any other distance back to the field?

A. I think, Mr. Butler, I have said several times that we used an average distance to reflect the travel of the gas,

and if you take the actual distance between compressor and your measuring point you get a figure which is less than the distance used, which necessarily follows that the remaining distance does reflect some distance behind the station.

Q. Why, Mr. Carter, you used round figures and after you used round figures, the difference necessary to make a round figure you, in your exuberance, have allotted to the distance behind the station, between the station and the field; isn't that about the true statement?

A. No, that is not true.

Q. All right. Take the Manufacturers Light & Heat Company, 10 miles; how do you get that?

A. The Manufacturers Light & Heat, as I recall, does not own any—The United Fuel Gas Company does not own any line beyond the compressor station, and in arriving at a mileage, a mileage of 10, as I recall, which was used for that distance——

Q. For what distance?

A. That the demand travelled or use in computing the demand mileage allocation figures.

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[fol. 2959] Q. Where was this 10 measured? You say here that figures from the compressor back to the field—or the question was: "That figures from the compressor station back to the field, does it not?" And you very promptly said, "Yes, sir." Now are you right or wrong?

A. A figure of 10 miles was used and that would necessarily follow that allowance of 10 miles back into the field, or a distance of 10 miles, would reflect that much distance back into the field, that is all.

Q. But don't you know that it is just the opposite, that that 10 miles reflected the distance forward from Spencer and not the distance back to the field?

A. The United Fuel Gas Company does not own the line beyond Spencer. The line belongs to the Manufacturers Light & Heat Company.

Q. Where is the point of separation?

A. At Spencer.

Q. Right at the compressor station?

A. That is my understanding, yes.

Q. Well, that may be a fair answer—and I am not critical—but it does not satisfy.

A. That is my information.

Q. Who told you that, or where did you get it?

A. I do not remember where I got that first, from Mr. Blundon or I got it talking to the people in Charleston, the company, or where I got it first. The map of the system shows a line as belonging to the Manufacturers.

Q. All right. Now the Central Kentucky Natural Gas Company, you worked out another large distance back to the field, back of the station, of 1.75 miles; and what is the split-up there?

A. I think I testified that I used average haul or average travel of the gas of 10 miles in the computions for demand mileage, and I think I testified the other day that that 5040 [fol. 2960] could be broken down into two parts, 8¼ and 1¾.

Q. How many feet did you use there?

A. I don't know whether I can give it to you offhand or not, Mr. Butler. I haven't that 8¼ broken down in feet; that is an actual measurement.

Q. Well, can't you find where you got it?

A. That is an actual measurement as made by the company from the compressor to the measuring point. That is on Line BM-22. Part of that is in West Virginia and a part is in Kentucky.

Q. Well, this 10 miles that we are talking about, you say Kermit to Inez is 8¼ miles?

A. The actual distance between the compressing point and the point of measuring is 8¼ miles, as I understand it.

Q. Well, is that just something that was given to you or are you now going back to original figures?

A. The original figures which included the entire line consisting of smaller size pipe, figured, as I recall it, something less than nine miles or approximately nine. Take all of the pipe as shown in the Ford, Bacon & Davis inventory and appraisal for Line BM-22 in both West Virginia and Kentucky and divide that by 5280, you will get a figure or something over nine, but——

Q. Yes, get 9.6.

Mr. Turner: Wait a minute.

The Witness: No, you won't get 9.6; you will get less than 9½.

Q. All right.

A. But in that figure you will have several sizes of pipe which are not in the main transmission line BM-22; you have got some two inch pipe, you have some four inch pipe and some six inch and some eight inch and ten inch; that

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[fol. 2961] line, is a 16 inch line; so it is not fair to add all your footage together and divide it to get your mileage.

Q. What are the 2, 4, 6 or 8 doing in there?

A. That is a part of the BM line, it is side lines, and you cannot take your total to get your distance of travel of your gas.

Q. But the actual mileage reaches, you think, just about 9½, doesn't it?

A. No, sir, I did not say that. The actual mileage between Kermit and Inez is 8¼ or thereabouts miles.

Q. What were you talking about 9½.

A. That is including, or I am making a computation here for you, if you take all the pipe included as Line BM-22, which is a part in West Virginia and a part in Kentucky, you will get a total footage of pipe of approximately 9½ miles, a little less than 9½ miles, if I figure correctly, but that is not all in the main line between the compressor and the metering station, or it is duplicate lines and should not be used as getting the distance from Kermit to Inez.

Q. Well, which is it; is it duplicate lines—let us know now?

A. I cannot answer that question.

Q. Oh, you cannot? But if you do not consider them duplicate lines how many miles then do you have from Kermit to Inez?

A. Less than nine.

Q. Where did you get that other half in there?

A. That is putting in two inch pipe and everything else and you do not use two inch pipe in a transmission line to carry much gas.

Q. Very well, but putting it all in, what is the mileage you get?

A. About 9½ miles.

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[fol. 2962] Q. Now, the truth is, whatever it was, 8 or 9 or 9½ or 9.6, you just took a round figure, didn't you, and made it 10?

A. I have tried to say several times that the figures were general length of travel and in that particular case we used 10. That could be broken down into the two parts I testified to the other day of 8¼ and 1¾.

Q. What did you mean when you say you used round figures; what do you mean by round figures?

A. The approximate distance that the gas travels.

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[fol. 2963] Mr. R. J. WINANS testified on cross-examination as follows:

Q. Having reference to your Exhibit 173 now, but as a preface to that, if I understand you clearly, the load factor is a matter of very great importance in framing a proper rate, whether it be a gate rate, wholesale rate or a final distributing rate?

A. Are you referring to Company Exhibit 172?

Q. 173 I am going to inquire about, but preparatory to that.

Mr. Turner: It is preliminary. Pay no attention to the exhibit. Answer the question independent of the exhibit.

The Witness: Will you read the question?

(Question read.)

A. Yes, it is.

Q. Why is that so?

A. As the use of the facilities of the company are increased, the average unit cost becomes less.

Q. And you think that the load factor should not be lost sight of in any of those rates?

A. It should not.

Q. How do you give it effect in fixing a final distributing rate, say in Columbus or in Cincinnati or in Cleveland?

A. If the city gate rate is a two-part rate it should be reflected in the rate charged to domestic, commercial and industrial customers. The load factor should be particularly considered when designing an industrial rate where large quantities of gas are consumed.

Q. But in the final, ultimate fair rate that theoretically

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[fol. 2964] you, as an expert, would design and work out for

Columbus, would there be a reflection of the load factor of Columbus?

A. Yes, there would. It would be reflected in the cost analysis in which the practical rate would be determined. For instance, a proper rate, to my notion, as applied to the city of Columbus would be a dollar for the first 500 cubic feet, for the next 3000 cubic feet use- each month, 6 cents per hundred, the next 195,000 would be 5½ cents, and all over 200,000 5 cents per hundred cubic feet.

Q. I was not aware, Mr. Winans, that I asked you to tell me the rate that you would figure out for Columbus. Read my question again.

A. Well, that is based on a load factor, Mr. Butler.

Mr. Butler: Well, just read my question again.

(Previous question read as follows: "But in the final ultimate fair rate that theoretically you, as an expert, would design and work out for Columbus, would there be a reflection of the load factor of Columbus?")

A. Yes, there would.

Q. No, how would that be reflected, in what way, by what formula, by what process?

A. By a cost analysis of the service furnished.

Q. Which gives effect to the load factor of this city as compared with the load factors of other cities in the state?

A. Well, it would be based upon the present experience of the company in the city of Columbus.

Q. What do you mean by the present experience?

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[fol. 2965] A. If we show under certain load factor what we think the average or what the rate schedule is, under another load factor the schedule might be a little different.

Q. Yes.

A. That is if the load factor, say, is 60 per cent., the average revenue per *N* c. f. which we would expect to get would be less than if the load factor was 55 per cent.

Q. Well, suppose Columbus had a very high load factor and say Cincinnati had a very low load factor, in framing rates for those two cities, would the rate for Columbus reflect the benefit of its factor and the rate for Cincinnati reflect the penalty for its factor?

A. Yes, it would under a cost study.

Q. Well, is that the proper way?

A. Yes.

Q. And would that method reflect the load factor back through distribution, transmission and production?

A. It should.

Q. When you fix the same gate rate for each community in this state, in what way have you taken care of these individual load factors and the merits of the high load factor and the demerits of the low load factor?

A. We haven't. That is one of the things that we want to do. It is my own recommendation that the straight line meter rate of the city gate should be changed to one having a load factor. In that way the city having the higher load factor might get a little lower rate.

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[fol. 2966] Mr. J. PAUL BLUNDON testified as follows:

Q. Mr. Blundon, in view of the ruling of the Commission I will start your examination, start over again with your examination on City Exhibit No. 115. Mr. Seyffert in rebuttal testimony testified to certain suggested correc-

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[fol. 2967] tions in the operating expenses of the Ohio Fuel Gas Company, as shown by city Exhibit No. 70, Mr. Allensworth's exhibit. What effect do these suggested corrections have on a fair city gate rate for Columbus?

A. Very little; approximately .8 of a cent per M c. f., excluding the leasehold expenses on unoperated acreage.

Q. Have you prepared a statement showing these corrections and recalculated the city gate rate based on Mr. Seyffert's suggested corrections of operating expenses?

A. Yes, sir.

Q. I hand you what, for the purpose of identification has been marked as City Exhibit No. 115. Directing your attention to page 2 thereof, I will ask you if that is such a study?

A. It is.

Q. Will you please explain that briefly?

A. Page 2 of City Exhibit No. 15, column 1, shows the various items; column 2, the expenses as shown in Mr. Allensworth's Exhibit No. 70; column 3, Mr. Seyffert's suggested corrections; column 4, the operating expenses that

were used in the calculation of the various gate rates throughout City's Exhibit No. 115. This changes the total gas sales of the Ohio Fuel Gas Company from 55,186,454 M c. f. to 54,018,085 M c. f., and changes the sales allocation percentage for Columbus from 15.8150 to 17.1787 per cent, and, of course, it affects the allocation of property and expenses on the sales demand mileage *mileage* basis. The effect of Mr. Seyffert's suggestion of operating expenses on the Columbus gate rate is shown on page 11 of City Exhibit No. 115 and summarized, the change is as follows: On a 6 per cent return, from 25.5109 to 26.3526

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[fol. 2968] cents per M c. f.; on a 6½ per cent return from 25.9943 to 26.8399 cents per M c. f.; on a 7 per cent return from 26.4778 to 27.3271 cents per M c. f.

Q. On page 4710 of the record, you were asked if the rate for Springfield on the sales demand mileage basis of allocation would not be 32.58 cents. What is your answer to that?

A. A fair city gate rate for Springfield on a sales demand mileage basis of allocation would be, on a 6 per cent return, 34.888 cents per M c. f.; 6½ per cent return, 35.2828 cents M c. f.; 7 per cent return, 36.0768 cents per M c. f. The details of this calculation are shown on page 5 of City Exhibit No. 115.

Q. You were also asked to compute gate rates separately for the Springfield west end measuring station and the Springfield Selma measuring station. Have you prepared these?

A. Yes, sir.

Q. And where do they appear in Exhibit 115?

A. They appear on pages 6 and 7 of City Exhibit No. 115. The rate for the west end measuring station would be 24.3054 cents per M c. f. on a 6 per cent return and for the Selma station would be 35.7184 cents per M c. f.

Q. And this was calculated exactly the same as in your previous calculation?

A. Yes, sir.

Q. The measuring station at the west end for Springfield is farther from the point of origin of gas than the Selma measuring station, and yet, as I understand you—the Selma station is the farthest measuring station, am I right about that?

A. No, West End.

Q. West End is farthest. And it has the lowest gate rate?

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[fol. 2969] A. Yes, sir.

Q. Will you explain the reason for that?

A. In an allocation based on sales demand mileage, three factors are brought into play in determining the portion of property and expenses allocated to that particular user. They are: Sales, maximum demand and mileage which the gas is transported; each plays its part in determining the rate, so that in one portion of the property, demand plays a large part in determining the rate and in another portion of the property, average sales plays a large part; the two together are, in effect, lead factor. In other words, if on the days of maximum demand, all customers just used their average for the remainder of the year, the load factor would be 100 per cent, and the demands could be considered as sales and the transmission property and expenses allocated on the basis of the total annual sales weighted by the mileage that the gas is transported. In other words, if all consumers demands were in proportion to their yearly sales, the transmission property could then be allocated on the basis of sales weighted by mileage. This is not fair, particularly, with this company because there are quite a few of their users who use gas only in winter time during the peak load, and as it is necessary to keep this equipment for them throughout the remainder of the year when they are not using it, they should pay a higher price for gas during the time that it is being used. In the particular case, the West End Measuring Station at Springfield has a very favorable load factor which more than offsets the effect of the eight additional miles; however, the West End Station consumes a very small amount of gas as compared to the Selma Station, and has not much effect

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[fol. 2970] on the ultimate rate for Springfield. Of course, in applying the demand mileage method of allocation, the weighted average for the town should be used because the gas feeds in through both meters to supply the various consumers of the town, and the location of consumers within the town, would govern the amount of gas that would come through the respective gate rates.

Q. On page 4712 of the record you were asked if 16.75

cents would not be the gate rate on your working papers for Bay Village. What is your answer to that?

A. The gate rate for Bay Village would be 18.9110 cents per M c. f. on the basis of a 6 per cent return, and the calculation for this is shown on page 13 of City Exhibit No. 115.

Q. How far does the gas have to be transported for Bay Village?

A. Bay Village has three metering points, one of which is .7 of a mile from the source of supply, the other 1.2 miles from the source of supply, and the other 3.1 miles from the source of supply, the average length being 1.54 miles.

Q. On page 4712 of the record, you were asked if the correct rate at Toledo, under the method of allocation you have used here, would be 98.144 cents. What is your answer to that query?

A. The correct rate at Toledo on a 6 per cent return would be——

Mr. Turner: Wait a minute now. We don't want to object, but we do want to object in the face of what is stated on the bottom that Toledo is there figured with the Columbus load factor.

Mr. Davis: No, that isn't true. That is another proposition, Mr. Turner.

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[fol. 2971] Mr. Turner: All right, beg your pardon, objection withdrawn.

The Witness: The correct rate at Toledo on a 6 per cent. return would be 63.7190 cents per M c. f., as is shown by the calculation on page 16 of City Exhibit No. 115.

Mr. Turner: May I ask a question there, John, to save time?

Mr. Davies: Yes.

Mr. Turner: You have not used the figures in your work paper submitted to us to get that figure, have you? You have used other figures?

Mr. Davies: That is in answer to the last question?

Mr. Turner: In answer to the last question as to Toledo. You can answer that yes or no.

The Witness: I would have to say, Mr. Turner, that I think that all the figures we used are in the work sheets. I

will check that, and if they are not, why, we will supply them to you.

Mr. Turner: Our point is that you have not taken your own figures here for the Toledo rate. The figures that you have submitted to us, you haven't taken them to get that rate, you have taken new figures to get that rate.

The Witness: I think they are in our work sheets, that there are figures in our work sheets for all the figures we used in computing that Toledo rate. However, I will check that and if they are not, I will furnish them to you.

Mr. Turner: We want to know whether they are different figures than those used in Exhibit 74.

The Witness: I can't tell you, but I will check it and 5784

[fol. 2972] furnish them to you if they are not.

Mr. Turner: We may be mistaken about it. A hurried look at them makes us think they don't.

Q. You will check that, Mr. Blundon, to be sure?

A. Yes.

Q. What is your explanation, Mr. Blundon, for this high rate at Toledo?

A. It is due to the fact that the Northwestern Gas Company only purchases gas from the Ohio Fuel Gas Company to meet its periods of high consumption, and, as a result, it has a very poor load factor, that is 27.73 per cent., and, of course, the gate rate which we show here of 63.7190 cents per M c. f. for Toledo is only for that portion of the gas which is purchased from the Ohio Fuel Gas Company, and not for the artificial gas that is made, or for the gas which is transported by the Ohio Fuel Gas Company for the Northwestern. If all gas for Toledo is considered, the resultant average price for the Toledo gate would, very likely, be very much below the 63.7190 cents per M c. f.

Mr. Turner: That is the old story if we didn't have beef steak we would sell it at 10 cents a pound.

Mr. Davies: That is right, according to your version.

Q. Have you made a study of what would be the gate rate for Toledo, with a load factor the same as that for Columbus?

A. Yes, sir.

Q. Does such study appear on page 17 of Exhibit No. 115?

A. It does.

Q. Will you explain that study?

A. It is made exactly in the way the other gate rates are calculated, except that it is based on Columbus' load factor and results, on a 6 per cent. return, in a gate rate

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[fol. 2973] of 43.7294 cents per M. c. f. In making this study, the maximum demand and mileage were taken exactly as for the conditions as now exist, but the yearly sales were increased to 181.4 times their maximum day sales, which is a relationship that exists for Columbus. This results, of course, in increasing the production property expenses, general property and general expenses and leaseholds, but, of course, the resultant cost of service is divided by 3,991,530 M. instead of 2,226,935 M. resulting in a lower gate rate. This is the gate rate that would be correct if the gas was used regularly or in the same proportion that it is used here in Columbus.

Mr. Turner: In other words, the Columbus load factor you have used?

The Witness: That is right.

Mr. Davies: That is what he says frankly.

Q. On page 4881 of the record you were asked to compute the city gate rate for Columbus with no adjustment on the United Fuel Gas Company purchase price. Have you done this?

A. I have, as shown on page 19 of City Exhibit No. 115. In making this study the correction which is made to the production expenses of the company on account the purchase price for gas at the Ohio River is eliminated, and the result of the study is that the maximum city gate rate for Columbus on a 6 per cent. return would be 28.9422 cents per M. c. f.; 6½ per cent. return, 29.4295 cents per M. c. f.; 7 per cent. return, 29.9168 cents per M. c. f.

Mr. Turner: Where are your working papers for this to be found, for this page 19 of City Exhibit No. 115? I want your working papers.

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[fol. 2974] The Witness: No working papers to it, sir.

Mr. Turner: You couldn't get those allocation factors without working papers, could you?

The Witness: The allocation factor of 17.1787 per cent. is in the testimony, and is 54,018,085 divided into 9,279,605.

Mr. Turner: Are these allocation factors in this column 3 the same as in your 74?

The Witness: The 17.1787 per cent. is different from the allocation factor in our Exhibit 74 and is calculated, as I explained in answer to the third or fourth question.

Mr. Turner: And how about the rest of those allocations?

The Witness: The demand mileage allocation figure of 10.2782 per cent. is exactly the same as previously testified to. The general property allocation——

Mr. Turner: And you took no consideration of the pipe line that carried the gas from West Virginia to Sugar Grove, did you?

The Witness: Neither that or behind any compressor station except in the case of a few towns served by wells. Now, the general allocation factor of 11.9817 per cent. is determined from the above two——

Mr. Turner: That is a new factor, isn't it?

The Witness: Yes, but it is calculated from the two there just before it, just a matter of arithmetic, and there are no working papers to it.

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[fol. 2975] Q. Where the meters were only read monthly, how did you determine or estimate the maximum demand?

A. Where the meters were read monthly, we estimated the maximu demand as 5 per cent. of the maximum month, and that was based on two things: first, a study of several conditions that existed in the Ohio Fuel system; and second, on the basis of the company's preparation of a map which hung on Mr. Phillips' wall which he used for operating purposes, and on that map was shown the demands of various consumers which were prepared on the basis of 5 per cent. of the maximum month.

Q. What portion of this total demand mileage factor used by you was based on daily meter readings?

A. 64.5.

Q. What proportion was based on weekly meter readings?

A. 17.7.

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[fol. 2976] Q. And what percentage of demand mileage factor was based on meter readings of less than a week?

A. 7.7.

Q. And what was based on monthly meter readings?

A. 6.1.

Q. And how was the balance made up?

A. The balance or difference between the sum of percentages given, or 4.1 per cent., is arrived at by the meter readings between 7 and 30 days which were estimated on the 30 day basis, and by the rural consumption which was estimated.

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[fol. 2977] Q. Mr. Blundon, there has been some testimony here to the effect that in 1928 the compressor stations of the United Fuel Gas Company pumped substantially in one direction only, and to the effect that each user of gas in the United Fuel's system always got its gas from the same source; is that a correct statement?

Mr. Turner: That certainly is not competent now. It just opens it up, and we will have to get the evidence again, and the Commission will have to hear it.

Mr. Davies: This is simply on the question of allocation.

Mr. Turner: Certainly on a question asked in cross-examination of your witness, who started on here early in October, supposed to have been prepared to answer questions, and he was cross-examined, and should have answered them then, if he knew all about it.

Mr. Davies: It is simply on the question of allocation. You presented your criticism and we are offering the reply to —

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[fol. 2978] Chairman Geiger: The objection will be overruled.

Mr. Turner: Note an exception.

A. It is partially correct. Cobb Station, Lewis Station, Walgrove Station, Beaver Creek Station and the booster stations supporting them, pumped substantially in the same direction. The remainder of the stations pumped in different directions at different times.

Q. Since your previous testimony, have you refreshed your memory as to the functioning of the various compressor stations in the United Fuel system from your working papers?

A. I have.

Q. What do your working papers consist of?

A. I have a complete log of every compressor unit of the United Fuel Gas Company, showing the number of hours of

each day that each unit worked, suction discharge pressures, the direction in which the gas was pumped. In addition I have a description by meter numbers of the main outlets of the United Fuel system, which describes the various points of origin of the gas going through that meter.

Q. How does the Branchland Station function?

A. Part of the time it pumps gas east to the Clendenin field and other times to Kenova compressor station.

Mr. Turner: This was in 1928 now you are testifying?

The Witness: Yes, sir.

Q. How does the Horse Creek compression station function?

A. Part of the time it pumps east to the Clendenin field and part of the time west to Kenova compressor station.

Q. And the Kanawha Compressor station?

A. Part of the time it pumps south and west to Ball's

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[fol. 2979] Gap, and part of the time north and west to Huntington; part of the time in easterly direction.

Q. And the Kenova compressor station?

A. Pumps part of the time west to Cincinnati; part of the time south to line B; part of the time east to Clendenin field.

Q. And the Kermit compressor station?

A. The Kermit compressor station pumps north to Kenova part of the time; south to Williamson part of the time; and west to Louisville part of the time.

Mr. Turner: If the Commission please, this is denial of nothing that was offered here. They are pumping in different lines.

Mr. Davies: Your witness Carter said they did not pump in different directions.

Mr. Turner: I will take what Carter said about it.

Mr. Davies: That is your privilege.

Mr. Turner: He was a great man until we got him.

Mr. Davies: Yes, but not so great now.

Mr. Turner: We will put on somebody that will be great.

Q. What about the Nye compressor station?

A. Part of the time Nye pumps east to the Clendenin field, part of the time west to Kenova compressor station.

Q. And the Walbridge compressor station?

Mr. Turner: This is just confusing to the Commission. I want you to look at this. How could it possibly meet any of the evidence in this case? These are different lines altogether.

Mr. Davies: We are taking all of your compressor stations.

Mr. Huffman: Where is it on this one?

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[fol. 2980] Chairman Geiger: The objection will be overruled.

Mr. Turner: Note an exception.

Q. How does the Walbridge compressor station function?

A. Part of the time pumping north to Kenova; part of the time——

Mr. Turner: Would you mind, Mr. Davies, just for the sake of a little clarity asking him pumping north to Kenova through what line?

Mr. Davies: No.

Mr. Turner: North through what line; south through what line?

The Witness: I don't know that I would care to identify that without the working sheets here, because this map that I have in front of me—in fact all of these maps in this case—do not show all of the lines.

Q. Perhaps you can get that information for Mr. Turner. Did you answer about Walbridge?

(Answer read.)

The Witness: To Louisville and Williamson.

Q. Do you mean by the above answers that in the United Fuel System the point of origin of the gas for a particular market varies from time to time?

A. I do.

Q. And that the mileage that gas may travel for any particular market varies from time to time?

A. I do.

Q. Mr. Carter criticised your inclusion in your demand mileage allocation calculation of the gas used by the com-

pany in the operation of its compressor plants. What percentage of your total demand mileage factor is this item?

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[fol. 2981] The Witness: .0669 per cent. of the total demand mileage factor.

And thereupon the Columbus Gas & Fuel Company moved to strike out the above answer.

Mr. Turner: Judge Geiger, we have made a motion.

Commissioner Geiger: Oh, I beg your pardon. The motion is overruled and the exception noted.

Mr. Turner: We just want to get our exception in.

Commissioner Geiger: That is correct. We want the record preserved.

Q. Assuming for the purpose of the question that it was incorrect to include this item in your allocation, would it have any appreciable effect on the result?

Question objected to by the Columbus Gas & Fuel Company.

Commissioner Geiger: I think we have passed on a matter very similar to that. The objection is overruled.

Mr. Turner: Note an exception.

The Witness: It would affect Columbus demand mile-

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[fol. 2982] age alloeation percentage by .0068 of one per cent.

Q. Mr. Blundon, Mr. Winans criticised the manner in which you calculated the mileage for the gas consumed by Elyria and several surrounding towns, the beginning point for which measurement you took an Avon Station. What percentage of your total allocation factor does this Exhibit criticise?

Question objected to by the Columbus Gas & Fuel Company.

Commissoner Geiger: I think it is the same thing practically.

Mr. Turner: Yes, we have in mind Section 614-44 of the General Code, which, we respectfully submit, is not being observed.

Commissioner Geiger: Well——

Mr. Turner: I know it makes no difference, but it does to us.

Mr. Huffman: We could cite a lot of sections that are not observed.

Commissioner Geiger: I think we will overrule the objection and the exception may be noted.

The Witness: .39 of one per cent.

Q. Assuming that you accepted Mr. Winans' criticism just referred to, of the method that you applied in this case, would it increase or decrease the gate rate at Columbus?

Question objected to by the Columbus Gas & Fuel Company.

Commissioner Geiger: Well, he has testified it would affect it a certain per cent. It is interesting to know which way, up or down. The objection is overruled.

Mr. Turner: Note an exception.

The Witness: It would have practically no effect, but the

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[fol. 2983] effect it did have would be to decrease the price of gas at the city gate of Columbus.

Q. Mr. Winans, Company Exhibit 175 criticises the application of the demand mileage principle to Zanesville. Will you look at Company Exhibit Number 175?

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[fol. 2984] Q. Look at company's Exhibit 175, to which I have just referred, and, directing your attention to the map attached thereto, tell the Commission what figures on that sheet are yours.

Question objected to by the Columbus Gas & Fuel Company; objection overruled; exception by the Columbus Gas & Fuel Company.

A. Tabulated data in the center of the sheet was taken from our work sheet. The balance was not and in some

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[fol. 2985] instances check with our figures and in some instances does not check.

Q. Referring again to Exhibit 175, Mr. Winans says, "The estimated maximum demand of 7833 M c. f. at Zanesville has been routed through various transmission pipe lines, using one day of 1929 and one day of 1930, maximum demands." Is that statement correct?

Mr. Turner: Now, may we have objections and exceptions to each of these questions?

Commissioner Geiger: Certainly.

Q. That is spitting in the milk and straining it. It is too hard.

A. It is not. The figure on the estimated demand in our work sheets and reproduced in the center of the map Exhibit 175, which in that case was 7833 M c. f., is the estimated demand to Zanesville as shown on the map hanging on Mr. Phillips' office wall. The demand which we used for Zanesville is the average of the 1929 to 1930 maximum demand shown under the heading average maximum demands in the center of this sheet, and is 7046.

Q. Does the map attached to Company Exhibit 175 show all of the demands in and surrounding Zanesville?

A. It does not.

Q. Does the manner in which you have calculated the mileages for the Zanesville gas check with the direction of

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[fol. 2986] flow and approximately check the quantities of gas shown on Phillip Company Exhibit Number 23?

A. It does.

Q. Referring again to Winans Company Exhibit 175, Mr. Winans said, "In determining the mileage, Blundon adds the distance between Zanesville and Westland compressor station, which is between Zanesville and Elk Compressor Station, and Zanesville and Hagan Compressor Station, and divides by three the distance this obtained to find the average distance." Is that statement correct?

A. It is not. It so happens that it approximates the result that we obtained, but it is not the way in which we determined the distance for Zanesville.

Q. In this same exhibit——

Mr. Turner: I thought you asked him now how he did it.

Mr. Davies: No, I did not.

Q. Will you state how you did it?

A. We weighted——

Q. Will you state how you did do it, Mr. Blundon, for Mr. Turner's information?

A. In determining the distance for Zanesville, we weighted each distance by the quantity of gas being transported and divided the total by the total gas transported, and in that way obtained the weighted average mileage.

Q. Referring to the same exhibit, Company's Exhibit 175, Mr. Winans says in another place, "Blundon has testified in a number of instances that after the maximum demand that a market had been estimated, the source of supply was computed from the nearest major compression station." Is that statement correct?

A. No, sir, not in its entirety.

Mr. Turner: He is disputing himself now.

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[fol. 2987] Mr. Davies: No, he is not.

The Witness: There were at least four places in our testimony where we specifically referred to the beginning point of the mileage as the last point of major compression, whether it was done by a large or a small station, the point of compression that propelled the gas to its destination.

Q. What do you designate as major compressions?

A. The compression that compels the gas to its destination, regardless of whether it is large or small.

Commissioner Geiger: Which way do you mean? Coming to the field or going from the field? You use the expression, "last point".

The Witness: The last point is the point away from the point of consumption.

Commissioner Geiger: You mean the farthest compressor station from the point of consumption which would necessarily be the compressor station nearest the point of production.

The Witness: No, these mileages were computed from the station that actually propels the gas to its destination.

Commissioner Geiger: All right.

Mr. Davis: To its consumption.

The Witness: To its consumption.

Q. What per cent. of your total demand mileage factor does Exhibit 175 for Zanesville criticise?

A. It criticises 1.18 per cent. of the total demand mileage factor.

Q. Mr. Blundon, have you examined Company Exhibit 196, which purports to show the gate rates for the various uses of the Ohio Fuel Gas Company?

A. I have.

Q. What have you to say as to the correctness of those

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[fol. 2988] gate rates?

A. In practically all instances they are approximately correct. They do not check with our figures by a few cents a thousand, but they are approximately correct.

Q. Have you analyzed those rates to determine the reason for higher rates?

A. Yes, sir, and for that purpose we took first, the first group, those rates or those towns with an indicated gate rate of over 50 cents per M c. f. This group consists of North Baltimore, Bowling Green, Luckey, Fort Clinton, Arlington, Arlington-Bortage, Auditor-Bradnor, Auditor-Helena, Auditor-Rudolph, Consumer-Cygent, Piqua Number 2, Dayton Power & Light-Vandalia, Dayton Power & Light-Zenia Number 2, New Knoxville Gas Company, Pool-Van Buren, Dayton Power & Light Sedalia, Northwestern Natural Gas Company-Toledo, Central Indiana Gas Company, Middletown. Of this group in the case of North Baltimore, Bowling Green, Luckey, Auditor-Bradnor, Auditor-Helena, Auditor-Rudolph Consumers-Cygent, Piqua Number 2, Dayton Power & Light-Vandalia, Dayton Power & Light Xenia Number 2, Dayton Power & Light Sedalia, the total yearly sales given by Mr. Waterman are only for a portion of the year, and for that reason the rates are misleading and not correct, and were so testified to by him.

Mr. Turner: They were taken from your work sheets, weren't they?

The Witness: Yes, but the yearly sales were not taken from our work sheets.

Mr. Turner: You had no yearly sales on your work sheets?

The Witness: Except for Columbus. The rate of the other towns, which are over 50 cents, are caused by a combination of poor load factor and a long distance. That is

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[fol. 2989] true of all the remaining towns in this group except that showing the 98 cent rate for Toledo, and this rate is caused by using as a maximum demand both the transported gas and the gas sold by the Ohio Fuel Gas Company to the Northwestern at Toledo, and by using the sales only for the purposes of obtaining the gate rate; in other words, it allocates the property used by the Ohio Fuel Gas Company for transporting gas for the Northwestern Natural Gas Company to the gas sold the latter at Toledo.

Mr. Turner: Wait a minute. Right at that point, didn't all of that data appear in your work sheets?

The Witness: Yes, sir, but we did not work it out in that manner and would not have worked it out in that manner.

Mr. Turner: But your data was in your work sheets?

The Witness: The data in our work sheets showed the total demand at Toledo.

Mr. Turner: And Mr. Waterman used your figures, did he not?

The Witness: Yes, but he did not apply them correctly. He did not go through them right. The second group of towns with rates between 40 and 50 cents consists of gas sold to the Dayton Power & Light Company at Phillipsburg, Bradford, Covington, Fort Laramie, Minster, New Bremen, New Carlisle, Pleasant Hill, Sidney, Tippecanoe, Troy Number 2, Versailles, West Milton, West Carrollton and all gas delivered to Sunbury, C. R. Strong, et al., gas delivered to the west Ohio at New Madison, Lynn and New Paris, and to the Central Anderson Station, the latter three being in Indiana.

In this group of towns, the distance that the gas is trans-

5811

[fol. 2990] ported varies from approximately 100 to 176 miles, with the exception of that delivered to C. R. Strong et al., and to Sunbury.

In the first case, the high price of gas to C. R. Strong, et al., is caused by a load factor of 24.71 per cent., the distance being 58.7 miles, and in the case of Sunbury, where the distance is 29 miles, the load factor is only 9.8 per cent.

Q. Mr. Blundon, do you consider your allocations made in this case to make an equitable distribution in the gate rates

throughout the Ohio Fuel Gas Company's system in Ohio?

A. I do. It is possible that some future adjustments might be necessary to take rates that are slightly out of line, due to some peculiar local condition, to adjust them to the nearest large consumer, but in the main, in the main towns, I consider it to be very fair, a very fair division of the cost of service to the company.

Mr. Davies: We now desire to offer City Exhibit Number 115.

Commissioner Geiger: It will be accepted, there being now no exceptions to it.

And thereupon the compilation above referred to was offer- introduced and admitted in evidence on behalf of the city of Columbus, and is herewith submitted marked City's Exhibit Number 115 and made a part hereof.

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[fol. 2991] J. Paul Blundon further testified on cross-examination:

Commissioner Geiger: Do you mean by that, if I understand it, taking the ten different stations adjacent to Columbus through which the gas flows, it would figure out a different rate for each of the ten?

The Witness: It would figure out a different rate for each of the ten, sir, but owing to the fact that some of the stations are just used a part of the year you come right back to the same condition that we have on the calculation of rates for all the different towns in the state. Where you have a town that you have a maximum demand for it on the day of maximum demand, and if you only have the meter readings, the sales to that town for a portion of the year, it produces a rate that is misleading. It is in the same character with the rates that Mr. Waterman shows in his exhibit that are misleading and which I testified to yesterday were misleading, because you don't have a full year's sales to divide that particular rate by.

Commissioner Geiger: Let me get it straight in my mind. You mean by that, assuming there are ten meter stations adjacent to Columbus, it doesn't show that the gas flows through all ten of them continuously for the year?

The Witness: That is correct, that is the point exactly.

Q. How about the eight of them, didn't it flow continuously through eight of them all year and your figures so show?

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[fol. 2992] A. I am not sure.

Q. Well, look at your work sheets.

A. I am advised that it flows continuously through seven of them.

Q. Well, let's check and see your seven?

A. Arlington.

Q. Wait a minute. Arlington.

A. Cleveland Avenue.

Q. Cleveland Avenue.

A. Groveport Pike.

Q. Check.

A. Hague Avenue.

Q. Check.

A. Weber Road.

Q. Check.

A. South Columbus.

Q. Check.

A. South Columbus.

Q. Check.

A. Tulane.

Q. And how about Columbus-Linden?

A. Yes.

Q. And Columbus-Linden makes eight, doesn't it?

A. That is right,

Q. Now, you could have gotten those figures, couldn't you?

A. That would not have been the ten, would not have added up and made a complete rate for the town.

Q. You gave me the ten, I didn't give you the ten, I asked you how many you used and you said ten and I asked yor for the gate rates and each of them.

A. I will answer that, sir, if you will use the eight stations, establish a meter rate for each of them, multiply that meter rate by the sales through that station for the year, you would not have the full cost of service to the Ohio Fuel Gas Company for serving Columbus.

Q. We will accept that for any part of your answer for the gate rate, but how does that differ from the way that you have gotten the total rate?

A. It differs very materially because the total rate that we have gotten covers the cost of service to the Ohio Fuel

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[fol. 2993] Gas Company for the Columbus Gas & Fuel and the Federal Gas & Fuel.

Q. Mr. Blundon, how can you have the whole without having the parts? Now, we are trying to break down the parts?

A. Well, the eight won't add up to the whole.

Q. Well, take the eight then?

A. Because you can't establish anything like a fair gate rate for the other two.

Q. How did you do it?

A. By combining them all into a whole, taking them as a whole, taking the maximum demand of the city as a whole and the annual deliveries to the city as a whole.

Q. What did you do about your mileage?

A. It is shown on these sheets.

Q. I don't care what is shown; what did you do about it?

A. We took the mileage to each of the ten stations.

Q. Exactly so, and if you took the mileage to each of the ten stations you get a different rate for each of the ten stations, don't you?

A. No, sir, you can't get a rate for the other two stations, because they are only used a portion of the year.

Q. You did Port Clinton and Sandusky, didn't you?

A. We calculated them, you calculated them and we testified to them, but your statement there was that it was unfair, an unfair rate.

Q. And you came back here and attempted to correct our two Springfield ones, didn't you?

A. At your request.

Q. Yes, and made them higher than we had them.

A. Yes, sir.

Q. And more ridiculous than we had them?

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[fol. 2994] A. I don't think so.

Mr. Huffman: We object.

Q. Isn't 11 cents a greater spread than 10 cents?

A. 11 is greater than 10.

Q. Yes. Your spread at Springfield, West End, on a six per cent return is the difference between 24.3 and 35.7, isn't it?

A. The figures are something like that.

Q. That is a little over 11 cents?

A. I think I explained, if I didn't make myself clear yesterday, I would like to make myself clear on that point now, that it is unfair to calculate different gate rates for meters leading into a single town or a single consumer, because in general the gas is brought there by the same pipes, comes from the same reservoir. More gas is going to flow through that outlet or inlet to the city which is nearest the source of supply, it is going to produce a distorted figure. The gas is going to go to the point of lowest presure and for that reason where they are connected on the inside, it is not fair to establish a gate rate for the single gate, but it is the use of the consumers as a whole. For instance, during winter, times of high demand here in Columbus, more gas is going to flow through the meter nearest the compressor station.

Q. You will pardon us for giving you the laugh, won't you?

A. Certainly.

Mr. Huffman: You will pardon us for giving you a laugh, too, if you consider 34 cents ridiculous as against 45 that the city is now paying at Springfield.

Q. Let's go to Springfield, your rate at Springfield under 5859
[fol. 2995] seven per cent is 36.0768, isn't it, combining the two gates over there?

A. 36.0768, yes, sir.

Q. And isn't that 8.64 plus higher than Columbus, Ohio?

A. On what basis?

Q. The basis of difference between subtracting 27.3 from 36.0?

A. Now, read the question.

(Previous question read as follows: "And isn't that 8.64 plus higher than Columbus, Ohio?")

A. No. It is 8.74 plus.

Q. 8.74. I will take your figures. It makes it worse. I am making the inquiry on Page 4 of your Exhibit 115. It seems to me the figures are right there.

A. I partially answered you, sir. I want to explain now the reason for the difference in rates in the two towns.

Q. That wasn't what I was asking. I was asking whether or not there was a difference?

A. There is a difference and there is a reason for it.

Mr. Huffman: All right, he is entitled to make an explanation.

Mr. Turner: All right, he is entitled to answer my question.

Mr. Huffman: And he is entitled to explain his answer.

Commissioner Geiger: Gentlemen, let's don't take up time quarreling among ourselves. Go ahead and ask the witness.

Q. I want to ask you if your spread between the west end of Springfield and the Selma gate isn't over 11 cents, according to your Exhibit 115, Page 4.

Commissioner Geiger: Are you sure you are right? You

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[fol. 2996] said Selma.

Mr. Turner: Between West End and Selma.

Commissioner Geiger: Well, that is all right.

Mr. Turner: It is either 11 cents on the six per cent or 12 cents on the 7 per cent, the same town.

The Witness: The difference between the Springfield West End gate rate and the Springfield-Selma gate rate as shown on Page 4 of our Exhibit Number 115 is 11 cents or greater.

Q. You were asked yesterday if your system did not bring about fair rates throughout the system of the Ohio Fuel Gas Company and you answered in the affirmative. Now, do you think that a rate of 43.6 cents for Muncie, Indiana, is comparable with one of 67½ cents for Toledo or 98½ cents as we figure your own figures?

A. Considering the conditions under which they take gas, I do. The load factor at Muncie, Indiana, is 70 per cent or greater, they take practically a uniform amount of gas throughout the year. Toledo is purely a standby service.

Q. Let's compare Pomeroy with Bay Village, Pomeroy down on the river with Bay Village up in Cuyahoga County. You have got Bay Village at 19 plus and Pomeroy at 21 plus. Do you think Bay Village is entitled to a smaller rate rather than Pomeroy?

A. I do.

Q. You do. All right.

A. The difference between the two is caused by the difference of length that the gas is transported.

Commissioner Geiger: Now, let me ask a question right there, unless you are going to follow it. Do I understand

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[fol. 2997] that you give Pomeroy a figure of 21 cents plus and Bay Village a figure of 19 cents plus on the theory that the gas is transported a greater number of miles to reach Pomeroy than it is to reach Bay Village for the reason that Bay Village gets its gas from fields in the northern part of the state?

The Witness: Yes, Bay Village is right in a gas field.

Commissioner Geiger: You mean there is a gas field in Northern Ohio near Bay Village?

The Witness: Surrounding Bay Village. The gas is only transported an average distance of a mile and a half, to Bay Village.

Commissioner Geiger: That is the reason you give Bay Village that lower figure.

The Witness: Yes, sir.

Commissioner Geiger: You don't assume that any of the Bay Village gas flows through the pipes from West Virginia to Kentucky to get to Bay Village?

The Witness: No, sir.

Commissioner Geiger: All right.

Q. Or from any other part of the system; you say Bay Village gets its supply right there?

A. Yes, sir.

Q. Within a mile and a half?

A. Yes, sir.

Q. How many wells?

Commissioner Geiger: Let me ask this, in computing the rate to Toledo do you take into consideration that some of the gas going to Toledo may come from the same field that serves Bay Village, or does it?

The Witness: In considering the rate for Toledo, we consider the actual deliveries to Toledo from the Pavonia

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[fol. 2998] station. Toledo gets part of its gas from the northern part of the state. You see, Toledo is served two

ways, it is served from Wheeler and also from Pavonia, which is a compressor station up in the northern part of the state.

Commissioner Geiger: You think Toledo gets some of its gas by way of West Virginia?

The Witness: Yes, sir.

Commissioner Geiger: And some from fields in the northern part of the state?

The Witness: Yes, sir.

Commissioner Geiger: And does not get it exclusively from the fields in the northern part of the state?

The Witness: Yes, sir.

Commissioner Geiger: And you have taken that into consideration in estimating your value for Toledo?

The Witness: Yes, sir.

Commissioner Geiger: That it gets some of it from distant points and some from nearby points?

The Witness: Yes, sir.

Commissioner Geiger: All right.

[fol. 2999] Q. Well, I don't think you answered my question about the wells of Bay Village?

A. From wells 4048, 4061, 4034, 3991, 4019, 4037, 1040, 4005, 3982, 3998, 3938, 3934, 3965, 3925, and then in addition——

Q. Bay Village takes the supply of those wells, does it.

A. I didn't say it took all the supply of it. I said it gets or can get its supply from those wells from an average distance of a mile and a half.

Q. It can get its supply from West Virginia, can't it?

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[fol. 3000] A. I can't say.

Commissioner Geiger: Do you know how large a place Bay Village is? You talked about it a good bit. Is it 200 people?

The Witness: 2294.

Q. You have put up here on Page 4, a Toledo rate with a Columbus load factor and you say that that Toledo rate with a Columbus load factor should be 43.7 cents, yet in the same column on the same page, you have got Sandusky at 31 cents. How do you explain them. Give us some load factor on that.

A. Sandusky has got a load factor of 60 per cent.

Q. 60 per cent. of what?

A. The load factor, as has previously been defined and explained in this case——

Q. By whom?

A. Is the relation in percentage between the average day's sales, and the maximum day's sales.

Q. You do not take into consideration in load factor the facilities, do you?

A. No, sir.

Q. You don't measure the facilities that go into a town and say that the load factor is 100 per cent. of what they can put into the town?

A. No, sir, the load factor is the relationship of the actual use of the gas and it is the relationship of the average day's sales to the maximum day's sales on the day of the system maximum demand as we are speaking about it here.

Q. On your own system you figure out Sandusky to be 31 cents as against Toledo 63.7 cents. Do you know where those two towns are located with reference to Pavonia Station?

A. I do not. I can say this, that the load factor at Sandusky is more favorable than the Toledo load factor. The distance that gas is transported for Sandusky is consider-

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[fol. 3001] ably less than the average distance that gas is transported for Toledo.

Q. How far from the Pavonia Station is Toledo?

A. The two short distances that we used on Toledo are 76.585 and 81.898. Now, on Sandusky, the distance is 64.738.

Q. From where?

A. Sandusky is figured from Pavonia through lines D-96, D- and D-11, total distance of 342,054 feet.

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[fol. 3002] Q. I suppose that makes them good. I am wondering, Mr. Blundon, if you haven't missed the purpose of the exhibit 175 which had to do with the Zanesville supply and the same with Exhibit 174 which had to do with Avon. Those exhibits were offered here to show that you had treated similar situations differently in different parts of the state. Now, I ask you to state whether or not you

did not figure the gas for Zanesville from more than one compressor station?

A. We did.

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[fol. 3003] Q. Didn't you figure it for a compressor station back of a compressor station?

A. We figured it from compressor stations more distant, that is, one station being more distant from Zanesville than another, but the gas for Zanesville was figured as the gas actually travels.

Q. How do you know that?

A. From all the information that we could get from the company, from Phillips' Exhibit 23.

Q. Phillips has told you a number of times about 23, hasn't he?

A. Sir?

Q. Phillips has told you a number of times about 23, you have been advised about 23 a number of times, haven't you?

A. What do you mean, advised?

Q. All right, if you don't understand it. Where did you consider that Zanesville got its gas from?

A. I think that is all explained in the work sheets, sir. I will be glad to read them to you again. Zanesville gas comes from three different sources or directions.

Q. All right, where are they?

A. Part of the gas comes from the east over line O, from Hagen, Elk and Westland Stations, part of the gas comes from local royalty purchase wells to the north over line N.

Q. Now, go ahead.

A. Part of the gas comes from the southwest over line H from Crooksville, Malta, Gore and Wheel compressor stations.

Q. Now, you have these stations, Hagen is back of Elk, isn't it?

A. Hagen and Elk both pump into the same line. The gas from Hagen doesn't pass through Elk. They both pump into the same line.

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[fol. 3004] Q. Both pump into the same line?

A. Yes, sir.

Q. The next station after Elk is Westland?

A. Westland pumps into the same line, line O and O-58 at Hagen and Elk.

Q. Why didn't you treat Columbus that same way and go back of Wheeler to the stations that pumped into Wheeler?

A. Because it is an entirely different situation. The stations that furnished gas pump into Wheeler, and the gas is repumped at Wheeler. In this case the gas is pumped by this station.

Q. And that is the answer to your differentiation here between the two treatments, is it?

A. That is the difference in the two situations.

Q. That is the difference. Where does the Wheeler gas originate?

A. It has various points of origin; some of it comes from West Virginia into Sugar Grove, then on into Wheeler; some of it comes from the east into Wheeler, Laurel, Richland into Wheeler.

Q. Why didn't you go back and figure the mileage to those stations from Columbus?

A. Because that is not the method used in the West Virginia case, and we were applying the method used in the West Virginia case.

Q. Mr. Carter says it was, but why didn't you apply that method the same as you did at Zanesville?

A. We did apply exactly the same method. It is an entirely different situation.

Q. You mean to say that you applied the same situation to Zanesville that you did to Columbus?

A. I do, and I will explain that a little further by saying, for instance, that at Laurel Station—I will take the Richland Station which is back of Wheeler, pumps into Wheeler,

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and the gas is repumped. Now, in the case of Elk and [fol. 3005] Westland Stations, both Elk and Westland discharge into the same line. Elk Station does not pump to Westland and the gas repumped at Westland into Zanesville.

Q. But gas from Hagan goes clear over to Zanesville and from Elk clear over to Zanesville and from Westland to Zanesville, does it not?

A. It does, and the propelling force is furnished at Elk for putting the gas in there.

Q. Why then, if it is the propelling force that counts, didn't you count the mileage from Spencer to Wheeler?

A. I have told you before, under the method we applied here, the distances we took were the distances from the last point of major compression.

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[fol. 3006] Q. Isn't the real reason that you would have gotten a factor of something like 25 per cent instead of a factor of something like 10 per cent?

A. No, sir, that is not the reason, and I would like to explain that probably a little further, that if the distances had been taken in all the cases back to the actual source of the gas, I do not believe that it would have materially affected the allocation percentages.

Q. We do, and we challenge you to produce figures.

A. I have not made any figures on that, but that is my opinion.

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[fol. 3007] Q. Why didn't you take more gas from Crooksville for Zanesville? That was the nearest source of supply, wasn't it?

A. Crooksville is the nearest station or one of the nearest stations to Zanesville, but it must be remembered in making an allocation that it is necessary that all towns to be served be served from the nearest source of supply pos-

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[fol. 3008] sible. For instance, Crooksville Station on Exhibit 23 shows a large part of its gas flowing in a southwesterly direction towards the Malta Station and toward the Connecting Gas Company's lines. Company's Exhibit No. 175 don't show that line at all.

Q. You got some gas from Malta, did you, for Zanesville?

A. I think I testified to that, yes, sir.

Q. And from Gore?

A. Yes, sir.

Q. Now, your sources of gas, didn't you recognize that the Exhibit 174, the Avon Exhibit, was introduced for the purpose of showing your fallacy of origin of gas?

A. Read that question again.

(Question read.)

A. I don't know the purpose of your introducing Exhibit No. 174.

Q. Now, you loaded Avon Station up with an average maximum demand of 7,727 M C. F. Assume that now. The

maximum capacity of this station was 800 M C. F.'s. Now, what we are trying to get at and show is that you do not take into consideration the origin of the gas in your allocation at all, you attempt to set some compressor station that happens to be located near the market as the source of supply?

A. What is the question?

Q. The question is, where did the gas that you have attributed to Avon Station come from, if you know?

A. Where did Avon Station get the gas?

Q. No, where did the gas that you have attributed to Avon come from?

A. I have not testified, Mr. Turner, in regard to any of the sources of supply for gas for any of the communities except those who are fed directly from wells. I have testified to the last point of major compression of that gas, but not to where the gas itself came from.

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[fol. 3009] Q. Mr. Blundon, I will ask you please to state where your maximum demand or supply for Saint Patrick comes from, Saint Patrick on Exhibit 175-A?

A. I don't have a copy of 175-A.

Q. Well, I have got it here and I will have to walk around the room here, and there were a number of — introduced. Saint Patrick is right there. Does that make any difference with your papers?

A. I just like to see where it is. Saint Patrick demand mileage is calculated from Gore and Malta Stations through lines H 109, H 118, H 90 and H 86.

Q. Gore and Malta?

A. Yes, sir.

Q. Now, if instead of figuring the supply for Zanesville from Hagen, Elk, Westland and these other stations, one farther away than the other, you had assumed that the gas had all come from one of these stations nearer Zanesville, you would have had a much less demand mileage for Zanesville, would you not?

A. That is true, there would have been a less demand mileage for Zanesville, but there would have been a greater demand mileage for some other town, as the gas from Westland, Hagen and Elk had to go somewhere else.

Q. But the way you have figured it there is a greater demand mileage for the state as a whole, is there not?

A. There is not.

Q. Why isn't there?

A. Because if all the Cambridge gas instead of being routed as shown on Exhibit 23, had been sent down to Zanesville, the gas to other points north would have had to come from Elk, Hagen and Westland and would have increased the demand mileage factor for the other towns.

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[fol. 3010] Q. Take the reference that was made in your testimony yesterday to Exhibit 173, which is the one showing the difference between the proportion of the transmission system contained in the United Fuel appraisals that is, the portion of the whole property, and the portion of the whole property attributed to transmission system in the Ohio Fuel set-up, do you believe that you get a comparable result by taking two properties whose transmission system bears the same relations that we have set forth in that exhibit?

A. Did I testify in regard to Exhibit 173 yesterday?

Q. Yes.

Mr. Davies: No.

Mr. Turner: Pardon.

Mr. Davies: I don't think he did.

Mr. Turner: I have got your memorandum.

Mr. Davies: Check my memorandum. If it is there, I will yield.

Commissioner Geiger: He seems to have testified to 175-A.

Mr. Turner: No, they talked about 173, Your Honor. This is the allocation or division of property. Strike the whole question out. I think he was examined on it yesterday, but I can't lay my finger on it.

Q. Did you testify at all about the effect of the relative divisions of transmission system property in the Ohio Fuel and the United Fuel?

A. I have given some testimony at one or two times while on the stand.

Q. Just yesterday I am talking about.

A. I don't think so, Mr. Turner. I may be mistaken.

Q. I may have it wrong in my mind, but I thought that 5874
[fol. 3011] you had said something about that yesterday, and I read the testimony over this morning. Well, if you haven't, I will pass it up. Speaking of errors—and I don't mean to be merely critical on account of errors because everybody has them in figures—but suppose you would look at your sheet 42 and see what the distance in feet is of lines B, Z-50 and Z-48; Homer to West Jefferson?

A. What page do you say, Mr. Turner?

Q. 42.

A. Yes, sir.

Q. What are your figures?

A. Sheet 42 shows two figures, 342,908; 242,663.

Q. Which is the correct figure?

A. I would have to calculate that out to tell you which figure we used.

Q. Assume that you used the 342,908 and the correct figures are 242,910, wouldn't that tend to give to Columbus a lower rate than otherwise?

A. Read that question again.

(Question read.)

Q. A lower rate than if the correct figures had been used?

A. Assuming that statement is correct, it might affect Columbus' rate.

Q. Wouldn't it have to affect it?

A. It would affect, but probably about a thousandth of a cent or something like that.

Commissioner Geiger: Thousandths of what?

The Witness: Thousandths of a cent. Be very, very small.

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[fol. 3012] Examination.

By Commissioner Geiger:

Q. Mr. Blundon, taking City Exhibit 115 and turning to page 4, we find there what you have headed as "Summary of representative city gate rates." Do we understand that in estimating these city gate rates, which you have set out

on page 4, that you have taken into consideration the flow of the gas from various fields, taking a broad view of the whole gas producing field, from Kentucky, West Virginia, Southern Ohio, Middle Ohio and Northern Ohio, and ascertained in some way that you have of estimating it, what distance the gas would flow to each particular gate way?

A. We took the way the gas did flow on the days of maximum demand.

Q. Well, you had some basis for judgment as to the way the gas did flow?

A. Yes, sir.

Q. Now, you have used, and it has been constantly used here, sales demand mileage. Is that the correct designation of it?

A. That is the correct designation of the allocation as a whole. The production property and production expenses are allocated on the basis of gas property. In other words, the production property and the production expenses are allocated on a basis of a state-wide rate, you might say. In other words, each user gets a proportion of the production property and the production expenses, based on the number of cubic feet that they use.

Q. Compared to the total number of cubic feet used in the limits of the state?

A. Yes, sir. In other words, to make it clearer, if Columbus uses 18 per cent. of the total gas sold by the Ohio Fuel Gas Company, both within this state and within In-

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[fol. 3015] diana, Columbus is allocated 18 per cent of the production property, which means 18 per cent. of the fixed charges, return, amortization and depreciation of the property, and 18 per cent. of the production expenses. Then the transmission property and transmission expenses are allocated on a basis of demand mileage.

Q. Now, what do you mean by "demand mileage"?

A. By "demand mileage" we mean the demand of the individual user, weighted by the distance that the gas travels for that user.

Mr. Turner: Travels from where?

Q. What do you mean by "demand"? Do you mean the gas actually consumed or the maximum demand?

A. The maximum demand. Or I think that is not quite clear. It is the demand on days of maximum demand. It is not the maximum demand that a consumer might call for throughout the year, but it is the demand that that consumer calls for at the time that the maximum demand is made on the system.

Q. Now, we are not clear as to why you take the maximum demand rather than the actual demand throughout the year.

A. The reason for that is this, that the property of the Ohio Fuel Gas Company, and to a certain extent, the expenses of the company, are created to meet the maximum demands that are put on that system. In other words, there will be a 12 inch line to a certain community we will say. That is necessitated because during times of maximum demand of that user, they must have a ten inch line. At other times during the summer a three inch line would be sufficient.

Q. In estimating the line and the diameter of the line, do you take into consideration the pressure that is put upon 5890

[fol. 3014] that gas?

A. No, sir, we do not estimate the line. We take the lines as they are, and assume that they are put there for a good reason. In other words, our system of allocation assumes that the system is designed just adequate enough for the various uses.

Q. Now, could you state briefly and clearly what you might designate the formula that you follow in estimating the sales demand mileage? I think you have intimated just now what it is, but state as clearly as you can and as shortly as you can what is your formula or method of estimating or finding what the gate rate is.

A. Under the method of allocation that we have used here, the production property and the production expenses are allocated among the various users in the Ohio Fuel Gas in the proportion that the total anual consumption or sales to that user bears to the total annual consumption or sales of the whole. That is the production property and the production expense.

Now, the next item is the transmission property and the transmission expenses. They are allocated to the various

users on the basis of the demand of that user at the time of maximum demand on the distance that the gas is transported from the last major point of compression. Now, they determine your two main allocation factors.

The general property is then allocated on the weighted average of those two. The general expenses are allocated on the weighted average of the production expenses, the transmission expenses, and the distribution expenses.

Q. In making those estimates, whose estimate of the valuation and expense have you taken, Ford, Bacon & Davis or

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[fol. 3015] Allensworth?

A. We have taken the Ford, Bacon & Davis estimate of reproduction new, except as modified by my testimony here on the cost of pipe, the direct overheads and the general overheads. The operating expenses that we have taken are Mr. Allensworth's in Exhibits 74 and 88, and Mr. Allensworth's as modified by Mr. Seyffert's suggestions except rentals on the unoperated leaseholds in Exhibit 115. That is, we have three exhibits in here dealing with those.

Q. Do you take Ford, Bacon & Davis for reproduction?

A. Yes, sir, except as modified——

Q. Except as modified by your testimony?

A. Yes, sir.

Q. You have taken for expenses Allensworth?

A. Yes, sir.

Q. Not Ford, Bacon & Davis nor the company?

A. No, sir.

Q. Now, you have not given us any estimate of what gate prices were or would be proper if we took both Ford, Bacon & Davis' estimate of valuation of reproduction and also their estimate of expenses; that, I imagine, would enhance the gate rate in the proportion that their expenses are above the expenses testified to by Mr. Allensworth?

A. That is correct, yes, sir.

Q. Now, tell us a little bit of the history of this method of allocation, when you first devised it, who did it?

A. This method of allocation, to my knowledge of its use—I don't know how much more it may have been used or may not have been used—originated in West Virginia Public Service Commission case No. 845.

Q. Is that the case that we have here?

A. No, sir, that case was in 1915 or thereabouts, at which

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[fol. 3016] time it was first used, not exactly as it is used now. It was later modified then in case No.——

Q. Who started it there in West Virginia? Just a minute. What engineers were responsible for it? Do you know?

A. Mr. Gerkin suggests it was Mr. Erickson. I believe that is correct. I don't remember whether Hagenah was in 845 or not. Now, the next case there was case 1516, and in case 1516 Mr. Uberlacher and Mr. Hagenah—no, it was Mr. Uberlacher and Mr. Jirgal of Chicago.

Q. For the producers or for the consumers?

A. One was an engineer for the producers, and Mr. Jirgal was an accountant for the consumers.

Q. Did they agree in that case that it was fair to make it?

A. Substantially, yes, sir.

Mr. Davies: Just let me break in. Is that what you call the 1923 case in West Virginia?

The Witness: Yes, that is the 1923 case in West Virginia. And then it was next used in 1928. That is case No. 1926, of which the record is in this exhibit, and in that case the allocation was testified to by Mr. Hightower for the company and by Mr. Carter for the cities.

Q. Did they agree on that as being proper?

A. No, sir, they differed in this way. They agreed on the principle, that is, of sales and demand mileage, sales for production and demand mileage for transmission. They agreed entirely on the sales, both having the same percentage of 20.667 per cent. Now, on the transmission property Mr. Carter based his exhibits and his testimony on the individual demands of the users, whether they came at the time of the system demands or not, and based his

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[fol. 3017] mileage on the distance that the gas was transported beyond the lines, or point of metering to the buyer. To illustrate that, Mr. Hightower's mileage for the Ohio Fuel Gas delivery would be from Spencer to Ravenswood. Mr. Carter's mileage was from Spencer to Sugar Grove. Now, there were the differences. Outside of that they agreed, sir.

Q. Now, where else do you know has this method of allocation been used?

A. It has been used in other cases in West Virginia, I think. I haven't quite time to build up a history of its complete use. But I am positive of that.

Q. Do you know whether or not it has been endorsed by any text book, text writers, as a proper method of allocation?

A. I don't know, sir. I don't think I have ever seen a text book on that subject.

Q. Now, a difference in what particular from that method of allocation presented by the company here?

A. It differs in the method of allocation of the transmission property and transmission expenses and the resultant effect on the general property and general expenses.

Q. I presume they would be the right ones to make that clear, but as I understand theirs briefly, it is based upon consumption?

A. Yes, sir. In other words, they would allocate, as I understand their testimony, they would allocate all of the property and all of the expenses on the basis that we allocate to the production property and production expenses.

Q. Without taking into consideration transmission?

Mr. Turner: Oh, no.

A. Oh, no, they would allocate transmission on the same basis.

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[fol. 3018] Q. Now, again, and probably repetition, in your estimation of the proper gate rates which you have made on page 4 of Exhibit 115, you have followed information secured from the company as to the source of the production of the gas and the distance that it flows before it gets to the gateway?

A. The information from which we calculate the rates on page 4 was made up entirely from the company's records.

[fol. 3019] Tuesday Afternoon Session, October 27th, 1931

And also—

J. Paul Blundon, resuming the stand for further cross-examination, continued his testimony as follows:

Cross-examined by Mr. Turner:

Q. We had a matter pending at the noon adjournment. I have sent a map out that I wanted to be used. I sent it

over to Cole to be duplicated, and they haven't got it back to me. Here it is now. I was going to start on another subject, but now we can start right on that. At the noon adjournment, the question of the similarity—what will I call it? In topography or location of fields? Do you know what I am driving at even if I haven't the word? The similarity of lay-out, we will call it, of situation in the gas field as between Ohio and West Virginia? Now, I have handed you what has been marked as Company Exhibit 160. In the State of West Virginia there are, looking at the map, at least, one, two, three, probably four, distinct major fields of gas origin, gas fields, in other words, aren't there?

A. I would say five.

Q. All right, we will call it five. Now, let us go to the Spencer field in Roane County?

A. Yes, sir.

Q. The Spencer field supplies local sales in that section, supplies the gas to the manufacturers light and heat.

—. ——.

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[fol. 3020] Q. I am talking now as of the dates of this allocation made down there?

A. Yes, sir.

Q. Yes.

A. Manufacturers light and heat, a part or practically all of the gas, the Ohio Fuel Gas, and at times is called on to serve Cincinnati and Huntington. It comes down—we better explain——

Q. The Spencer field is practically exhausted.

Mr. Davies: Let him finish.

The Witness: At times, the gas from Spencer comes down through Line A on to Huntington towards Cincinnati.

Q. Don't you know that the Spencer field is practically exhausted?

A. You will have to define what you mean by the Spencer field. Curry District in Roane County is one of the richest.

Q. Where is Clendenin Field?

A. Kanawha County, Clay County.

Q. The Clendenin field is south of the Spencer field?

A. Yes, sir, the Clendenin—you will notice on your map the big field in the upper righthand corner is the Clendenin and Spencer fields combined.

A. All right. What I want to get at, there is the Spencer Compressor Station there at Spencer; there is also the Lewis Compressor right about the middle of that dotted area, and there is Cobb south of Lewis, and the Walgrove west of Cobb. Now, those compressor stations handle the gas only from the fields of Spencer and Clendenin, do they not?

A. No, sir.

Q. What do they handle?

A. They handle gas that might be transported westward through lines S and A.

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[fol. 3021] Q. Where do they get it from the east then?

A. Sir?

Q. Where did they get their gas from the east in 1928?

A. Any gas that was transported from the east would come from those fields you have mentioned in connection with the Kanawha field. The Buff Lick pumps into Cobb.

Q. I probably may not make myself clear. Are there any fields east of this shaded area here that is marked Spencer field and Clendenin field, are there any fields east of that?

A. No.

Q. I want to get at that. They handle the gas then from the fields immediately surrounding, to wit, the Spencer and Clendenin field, or if there are any other fields in that shaded area?

A. Yes, plus the other exceptions you do not mention, like Porter, Buff Lick, Walbeck, Simmons, Ward, and at the time that allocation was made, there was another station up there, Frozen Camp, that I do not believe is shown on this map.

Q. All right. Now, the rate fixed at Spencer in the August 16th order and the rate fixed at Spencer in the October 3rd, 1931, order is just the same as the rate fixed at those two times for Williamson down in Mingo County in the southwestern part of the state, if you look down there; that is correct, isn't it?

A. No, sir, I do not think so.

A. All right.

A. Well, now——

A. If it is not correct, there is no explanation. How is there any explanation if it is wrong?

A. When the order itself came out of August 16th, your statement was correct. But within a few days after that order came out, the same rate was put in effect at Williamson. The other was at Huntington.

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[fol. 3022] Q. And the same rate was in effect at Huntington as was in effect at Spencer?

A. No, sir.

Q. And at Charleston?

A. No, sir, Spencer is different from Charleston. I will check myself on that, but I think I am right.

Q. I think you better check yourself on it?

A. We are both wrong. The order of August 16th, did not fix rates at all. It was the order of December 4th that fixed rates.

A. All right. We spent too much time on the law part of it, I am afraid.

Mr. Butler: I am sorry we can not give you the answers you want.

Mr. Turner: That is all right. I may call for it in my dumb way. I am simply blaming myself and taking all of the blame.

Q. Exhibit 78 in this case, which is supposed to recite the Public Service Commission's findings in case 6956 and 6956-A at Pages 4 and 5, have this to say—I won't read it all—"Applicable at Barboursville" if the Commission wants to note there as we go along, Barboursville is midway or approximately midway between Huntington and Charleston in Cabell County—"Applicable at Barboursville, Charleston", which is east of Barboursville, "Clendenin", which is north of Charleston, northwest of Charleston—northeast of Charleston—"Coalburg", which is south of Charleston, "Huntington", which is west of Charleston, "Spencer", which is up near the Ohio line, below Ravenswood, there, "South Charleston and Williamson", which is down in Mingo County in the other part of the state, right along the Kentucky border there—I read this thing

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[fol. 3023] probably incorrectly—"The first one thousand

or less, 75 cents; the next 150 thousand, 30 cents, the next 450 thousand, 25 cents; all over 601 thousand, 22½ cents." Is my interpretation of the Commission's order wrong, Mr. Blundon?

A. You are reading from a statement of the Commission and not from the Commission's original orders.

Q. This is the statement filed in the Supreme Court of the rates they fixed, is it not?

A. That is correct, but that don't go through the history and show the various rates that were there and were entered into, because I prepared date for the brief for the City of Williamson, whereby they petitioned the Commission to fix the same rate for Williamson as they did for Huntington, because, among other reasons, the distance that the gas was transported to Williamson was about the same as the distance necessary to transport it to Huntington.

Q. In 1928?

A. During this rate case, yes.

Q. Mr. Blundon, don't you know that Huntington got its gas in 1928, at the time this allocation was made by Mr. Carter, from the Clendenin field and Cobb compressor stations?

A. And Lewis compressor station.

Q. Put it Lewis Compressor station?

A. That is correct, but——

Q. How many miles from the Lewis compressor station, which your just mentioned, over to Huntington?

A. I have forgotten.

Q. We can show it there on the map. It is several times at least, the distance from the Kermit field to Williamson.

A. That was Williamson's reason why they should have as low a rate as Huntington.

A. How far is Williamson from the Kermit field?

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[fol. 3024] A. My recollection is about 16 miles.

Q. About 8½?

A. The distance we used was 16 miles.

Q. Did you use any distance at all?

A. Well, preparing the date for the Williamson brief. I did.

Q. I am talking about allocation.

A. I prepared the distance for Mr. Carter.

Q. You prepared the distance for Mr. Carter?

A. Yes sir, he took them from my papers.

Q. No mistake about it?

A. No, sir, he came there and spent a week. As a matter of fact, he was not in the offices at the United Fuel Gas Company down there until after the hearing started. I mean for working. He went to United Fuel Gas Company's offices and they refused him the data, and we obtained the information for him.

Q. Didn't you realize that he substituted other exhibits for all of the exhibits he introduced in the case?

A. The history of that is, Mr. Carter introduced certain exhibits in the case. The gas company asked for his working papers on that. And the attorneys for the protesting cities instructed myself and Mr. Carter to confer with the company officers and officials pursuant to adjusting those distances and demands, so that we both understood each other and had them correct, in other words, to reduce the differences to matters of principle. A conference was had——

Q. Did you attend the conference?

A. Yes, sir, and I——

Mr. Davies: Oh, Mr. Turner——

The Witness: We attended the conference and arrived at certain figures. We made certain corrections in our statements, and Mr. Hightower made certain corrections

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[fol. 3025] in his statements, and the result is we agreed on the figures on the different principles.

Q. So that the West Virginia allocation was made up from the figures that you made and corrected them for Carter?

A. As we corrected them in this conference.

Q. Well, are the figures as correct in that conference made upon the same basis as the allocation that you have made in this case?

A. In general, yes, sir. In making the allocation in West Virginia, we did not take into consideration all of the small towns in allocating to the West Virginia regulated business. We just took the towns where they had the city gate meters.

Q. I am thinking of something somewhat more fundamental than that. In this matter here, this allocation in this case, you take the distance only from Columbus to Wheeler?

A. That is right.

Q. Now, I will ask you if in the West Virginia case they did not go back of the compressor station and take in territory back of the compressor station on the demand mileage basis?

A. No, sir, except in one small instance.

Q. Which was that instance?

A. Lewis.

Q. That is the only one you think?

A. That is the only one.

Q. Then you——

A. Let me finish my answer. The other distances, that is, the distances of the supporting compressor stations, for instance, Henry to Cobb, from Buff Lick to Cobb, from Porter to Cobb, those distances were not considered.

Q. And if any such distances were considered in the

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[fol. 3026] West Virginia allocation other than this single instance to which you refer, then that allocation would not be on the same basis as yours in this case, would it?

A. No, sir.

Q. By the way, I did not finish this morning when I was asking you about the fields. Suppose we would move the Wheeler 30 miles further away, wouldn't that make Columbus have a greater rate?

A. I would not like to answer that, Mr. Turner, without considering all of the factors. It apparently there would give more to Columbus. It would give more to other towns. You couldn't answer that without going all over it again.

Q. We could answer it as we answered Dayton here this morning, that 66⅔ per cent. of the compressor would be allocated to Dayton, as against 33⅓ per cent. to Columbus, if we assumed Columbus was 30 miles and Dayton 60 miles distant, you agreed to that this morning.

A. I agreed to that this morning because your system was limited to two towns. Now, you are asking about the effect of Columbus on the whole system.

Q. Let us get another situation then. You spoke about Piqua the other day, the line that went to Piqua. I am

mixing this up and we will go off on a tangent. I will try to get back in a little bit. Do you know where Piqua gets its gas from?

A. I don't know off hand. I can hunt it up for you.

Q. Do you know how far apart the measuring stations are?

A. No, sir, not without hunting it up.

Q. Well, if I assure you that they are less than ten miles apart, will you accept that as a mere assumption?

A. Accept it for a hypothetical question.

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[fol. 3027] Q. All right. And if I tell you that both of those measuring stations get gas out of the same line, will you accept that for the moment anyway?

A. As a hypothetical question. I don't know whether it is correct.

Q. As a hypothetical question. Then won't your allocation vary here? How would you justify at those two gates one price of 27.5 cents and at the other gate 75.49 cents?

A. You are talking about something I don't know anything about. I would have to work those figures out in detail before I would say I would justify them.

Q. We have worked them out from your figures, and I asked you to bring in, and I don't suppose you have had the time during the noon hour, to bring in the figures on the Columbus measuring stations, these several measuring stations. I will ask you now if you did not get a different demand mileage and a different rate at each one of the measuring stations, whether they came from the same or different compressing stations?

A. You would get a different rate at the different measuring stations, but of course in computing the city gas rate, you take the weighted average of all of them.

Q. What becomes of your distance then?

A. It is the same as averaging the distance.

Q. Then how can we justify the Springfield rate to which I referred this morning, where, at the Selma gate, which comes from Homer—no, it comes from—you said it came from Homer; I am somewhat in doubt about that, but I will take your mileage—you have given a mileage of 71.40; you have given that mileage to Selma. You have gotten

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[fol. 3028] a rate for Springfield on that mileage of 32.58.

or we have, from your figures. Now, at the west end, you have given a mileage of 79.94, and for that same town we get a rate of 21.83, although it comes further.

A. I think there must be something wrong with your figures.

Q. Won't you figure them over?

A. I will figure them over if you ask me to. Have you made that demand?

Q. Yes, that is the same thing I talked about before lunch. Now, going back to West Virginia for a few minutes again, where in the State of Ohio can you find situations similar to the relations of the markets to production in West Virginia?

A. Similar in what way?

(Question read.)

Q. (Continuing:) I mean by that, the situation of the production area, with its relation to the markets?

A. There are several production areas in West Virginia. There are several of them in Ohio. I don't catch your question.

Q. You still think after looking at this map that the Ohio Fuel Gas Company's situation regarding the collection, production and delivery of gas is the same problem substantially that they have in West Virginia.

A. As regards allocation. In other words, it is no more difficult to allocate than the West Virginia property.

Q. That is what we want to get at, and we will let it go at that. Now, I hand you Company Exhibit No. 153—copies have been furnished, gentlemen, on that—and ask you to look at that, and I want to hand it to the Commission, and compare that producing area and the producing area in West Virginia and see if you can find any similarity?

4726

[fol. 3929] A. The map that you hand me shows no pipe lines or compressor stations, and I am not familiar enough with the study to make the comparison. Referring to the comparison, however, between the map, which also shows the fields, being Lerch Exhibit Number 1, it appears that the pipe line system is at least as complex in West Virginia as it is in Ohio. Does that answer your question?

Q. That gives your opinion?

A. Yes, sir.

Q. You furnished us at our request the working papers on your allocation, or the photostats of them. Did you furnish any working papers that you did not use in your allocation?

A. Furnish any?

Q. Yes.

A. I don't know. We furnished a great many figures. I think we used them all.

Q. You think you used them all?

A. I would not like to say without checking through them. That is a large order.

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[fol. 3030] Q. You haven't a property map before you?

A. No, sir, but I am refreshing my memory as to the condition from Phillips' Exhibit 23.

Q. I want to know from the records.

Mr. Davies: He is trying to answer you.

Mr. Turner: I know. We have 23 in here. We have said 23 several times. I want to know what record of the company other than 23, if you want to put it that way.

Mr. Davies: He is not testifying to 23.

Mr. Turner: He is trying to testify from it.

Mr. Davies: Go ahead, Mr. Blundon. Excuse me. You are cross-examining.

Mr. Turner: It is all right, John.

The Witness: The information we had, of course, was the property maps of the company, showing in detail all of their lines.

Q. There isn't a single one of those maps that shows directional flow, is there?

A. Wait just a second. I will complete it.

Q. I thought you were through?

A. No, sir. We had the gas purchased meter readings, those of them that we needed, to indicate the points at which the gas was purchased and put into the lines. We had your well records, which indicated the amount of gas that each well produced and the rock pressure of the field. We had your meter readings at the various towns, and in some cases had a record of the pressure that existed

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[fol. 3031] at that meter. Gas flows from the point of high pressures to the point of low pressure.

Q. Admitted.

A. We had the average intake and discharge pressures of the various compressor stations by months, and from those we worked out the direction of flow of the gas.

Q. That is your records now, all of them?

A. I think that is all of them. I would not like to make that an all inclusive statement, however.

Q. Now, Judge Geiger asked you a question that left the impression upon me that you had taken into consideration the full distance that the gas had traveled; is that true?

A. The distances that we took in measuring—in making demand allocation, are the distances from the last point of major compression or from the well in case of the towns that are fed direct from wells to the point of measurement for sale.

Q. I think someone called Judge Geiger out when we were talking about the Zanesville situation where you had a number of wells, or a number of compressor stations in a row, in sort of a row. Now, I am repeating when I ask you the question if, to supply Zanesville, you did not consider the gas at Hagen, Elk, Westland, Crooksville, Malta, Gore and Wheeler?

A. Yes, sir, we considered gas from all of those sources.

Q. And for Columbus you considered gas only from Wheeler and not back of Wheeler or only from Homer and not back of Homer?

A. That is correct. That is an entirely different proposition, as I explained in my previous answer.

Q. Now, the only difference between the two methods of allocation which you have submitted here, the one as City's exhibit and the one as Commission's Exhibit No. 1, lies in

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[fol. 3032] the fact that you have distributed or allocated the transmission, property and expenses in a different manner?

A. That is the essential difference of the method. Of course, the one method gives effect to certain things that the other method does not.

Commissioner Geiger: Does what?

The Witness: Gives effect to certain things that the other method does not.

Q. Just explain that.

A. That was explained in my testimony yesterday.

Q. All right, if it is all in, I don't want it any more.

Mr. Davies: Go ahead, let's have it.

The Witness: The sales method of determining the average cost of gas throughout the state gives no effect to mileage that the gas is transported, or gives no effect to load factor.

Q. May I bother you just a moment? You say, "Give no effect to the distance the gas is transported." Now, don't you want to add to that, "From the last compressor station?" Isn't that the essence of your system here, that you give effect only to the travel of the gas from the last compressor station?

A. The last point of major compression.

Q. What is the difference between that and the last compressor station?

A. There might be a lot of difference, because the last point of major transmission you have wells, and wells furnish compression that propels the gas.

Q. What have wells to do with your allocation?

A. In a good many instances we figured the mileage direct from the wells.

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[fol. 3033] Q. Let us get the mileage for Columbus, how that was figured.

A. The mileage for Columbus was figured from Wheeler and from Homer.

Q. You did not take back of those compressor stations consideration of any other compressor station?

A. No distances.

Q. No distances, and therein lies the essential difference between the two systems, doesn't it?

A. No, sir. No, sir, the sales method of allocation or the state-wide gate rate method of allocation, does not consider the distance that the gas travels in any manner. Neither does it consider load factor. Now, by bringing demand into play in allocating a portion of the property, it is in effect bringing into consideration load factor, and an examination of company Exhibit No. 196, from which the load factor can be computed, will readily show the effect of the difference in load factor on the various gate rates, which we have computed.

Q. Mr. Blundon——

Commissioner Geiger: Develop what load factor is.

Mr. Turner: I tried to this morning. It is all in the record.

Commissioner Geiger: All right.

Mr. Turner: But I would like to ask one question now.

Q. In the volume allocation, all load factor and all distance is considered necessarily, isn't it?

A. It is all merged into one.

Q. Has to be?

A. It is all merged into one, both distance and load factor. They are not considered separately, according to the individual uses.

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[fol. 3034] Q. But it is all merged in there as one and all considered as one?

A. Yes, sir.

Q. In the pot?

A. All in one big pot.

Q. Now, which more correctly reflects the load factor for the entire year, your one day maximum demand or the volume method or taking the entire year?

A. The method that I have used more correctly reflects the load factor, particularly the load factor that is put on the system at the time of its maximum demand.

Q. Which more correctly reflects the distance of the full travel of the gas, your demand mileage allocation or the volume method of allocation?

A. My demand mileage allocation more correctly reflects the distance of travel of the gas for the individual users.

Q. And that only takes it so far as the City of Columbus is concerned, from Homer or from Wheeler?

A. That is correct.

Q. And not back of that?

A. It does not go back of that.

Q. There is no well at either Homer or Wheeler, is there?

A. I don't recollect it.

Q. You know from your examination of the papers that the supply must necessarily come further than that?

A. The big bulk of the supply does, but you asked me if there were any wells there.

Q. I asked you if there were any wells there.

A. I don't know.

Q. And the big bulk of the supply that goes into Wheeler Station and out of Wheeler Station comes from West Virginia, doesn't it?

A. I think that is correct.

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[fol. 3035] Q. You have not taken into consideration in your demand mileage any part of the mileage back of Wheeler towards Spencer over which the majority of the gas comes into Wheeler?

A. In the case of——

Q. Demand mileage now.

A. In using our demand mileage factor, we did not take into consideration the distance from Wheeler back of the West Virginia line or the distance back of the other compressor stations to the source of supply.

Q. Judge Geiger has asked you about this method of allocation. Can you cite us to any more lopsided method of allocation than you have presented here?

Mr. Butler: Don't you think that ought to be reserved for argument?

Mr. Turner: No, I am asking.

Commissioner Geiger: He may answer. That is assuming it is lopsided, he wants to know if something is more lopsided.

Mr. Turner: I have opened before me Exhibit 115 at page 4, and I am asking the question. Read the question.

(Question read.)

Commissioner Bricker: That gets you back to the old question of, "when did you last beat your wife?"

The Witness: That was just what I was thinking of. I can't answer that.

Mr. Turner: I am not asking him to answer by yes or no. I am giving him all of the chance in the world for explanation. It is only unfair, when you ask him if he has stopped beating his wife, when you make him answer it yes or no.

Commissioner Geiger: Can you answer?

The Witness: I did say that. I cannot answer it.

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[fol. 3036] Mr. Turner: All right, I am through.

Mr. Butler: We are through.

By Commissioner Geiger:

Q. Let me ask you one question there, if I may. The United Fuel which is the West Virginia Company, delivers gas to the Ohio Fuel at what point? The Ohio River?

A. At Ravenswood, near the Ohio River.

Q. Near the Ohio River?

A. Yes.

Q. Then the gas flows through a pipe to Wheeler, and in estimating the gas rate of Columbus, you estimated from what you have designated the last compression station at Wheeler?

A. Yes, sir.

Q. By "last compression station" you mean the first one from the point of consumption?

A. At which the gas is compressed, yes, sir. That don't necessarily mean that nearest compressor station to a town, but the nearest one that compresses gas for that town.

Q. Nearest to the point of the city gate?

A. Yes.

Q. What consideration do you give to the transmission pipe line between the point where the United Fuel delivers it to The Ohio Fuel and the compressor station at Wheeler? What becomes of that expense, that property, its valuation and so forth?

A. Columbus is allocated its share of that expense and of that property.

Mr. Turner: By different factor.

Commissioner Geiger: By your allocation of demand mileage?

The Witness: Yes, sir.

By Mr. Turner:

Q. What is that, by your allocation of demand mileage?

A. The demand mileage allocated allocates to Columbus 5902

[fol. 3037] its share of that expense.

[fol. 3038] Valuation and Operating Expenses

United Fuel Gas Company

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[fol. 3039] RULING ON MOTIONS

Commissioner Bricker: The motions that Mr. Butler submitted this morning have had the consideration of the Commission. They presented three distinct issues:

First. Asking this Commission to require the Gas Company to furnish a detail of the unit prices for The Ohio Fuel Gas Company, comparable to that given for The Columbus Gas & Fuel Company property in Exhibit No. 6.

Second. To require The Columbus Gas & Fuel Company to make proper allocation of the property of The Ohio Fuel Gas Company used and useful in rendering the service to the City of Columbus and likewise such an allocation of the expenses and operating charges.

Third. To require The Columbus Gas & Fuel Company to furnish the inventory and appraisement, operating costs and expenses of the United Fuel Gas Company, which supplies gas to The Ohio Fuel Gas Company.

[fol. 3040] I presume that in that motion is implied also an inference that it should be required to furnish that data to the extent that The Ohio Fuel Gas Company is required.

Mr. Butler: Yes, Your Honor.

Commissioner Bricker: In considering these motions the Commission has taken into consideration the Constitution of Ohio adopted in 1912, and particularly Article 18, Sections 3, 4, 5 and 6, which makes the municipality in Ohio the unit which is to be considered in all utility matters. In other words, we have reread and reconsidered in this ap-

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[fol. 3041] plication the home rule provisions applying to public utilities in the Constitution. The power to contract is primarily in the City, as is the power to operate municipal utilities.

The statutes of Ohio recognize the municipality as the unit whereby and wherein rates and services shall be determined in all utility matters.

This Commission has heretofore issued an order requiring evidence of the reasonableness of the gate rate price in The Dayton Power & Light Company case. If that order is to be effective and avail this Commission of the information desired, it will be necessary that the reasonableness of the gate rate price be actually determined upon facts, not as for the State of Ohio as a whole but as for the City of Columbus or any other municipal unit which might be under consideration.

The Commission believes there is and should be a dedication of all of this property used and useful in rendering the service to the people of Columbus from the wells to the last distribution pipe. We cannot consider that such a ruling would be a penalty for common ownership or holding company management, but rather an assurance of a reasonable rate of return upon all the property of these companies used and useful in rendering the particular service.

We believe in this instance it is the duty of the Commission to look beyond the corporate entities to see the real nature of the service and the real ownership of the property before determining the reasonableness of the gate rate.

Added confidence has been given to the Commission in the position taken in The Dayton Power & Light Company case by reason of the decision of the Supreme Court of the

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[fol. 3042] United States in the case of Smith versus Illinois Bell Telephone Company, decided December 1st, 1930. In that decision the Supreme Court of the United States held that the Federal Court should have made findings as to the net earnings of The Western Electric Company realized in sale of equipment to licensees of the Bell system and the extent which if at all such profit figures in estimates upon which charge of confiscation is predicated, and found further that there should be a specific finding by the statutory court with regard to the cost of the license contract service to the parent company and the reasonable amount which should be allocated to the interstate and intrastate business. The Court there assumed that there must be a finding—not of the net earnings of the entire business of the parent company, but of the particular business in which the company under consideration was concerned.

It would be a vain thing for this Commission to take the position that we can determine the reasonableness of the gate rate and yet could not require all of the evidence necessary upon which to predicate such a finding. It is not an impossible nor extraordinarily difficult matter to secure the information sought in the motions here under consideration. It is certainly not more difficult than for The Western Electric to segregate its shop costs as to the particular units furnished the licensee companies of The American Company to evaluate the service of the great engineering staff under the license contract to the subsidiary companies.

There was even further evidence in that case of patent prices which are not apparent in this case.

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[fol. 3043] It seems to the Commission in this case that there is as complete a monopoly of the production, transmission and delivery of gas as could be effected, insofar as the City of Columbus is concerned.

If State regulatory authority is to be preserveed it must be made effective and unless it can reach to every element which materially affects the ultimate rate to the consumer, such regulatory body is rendered more or less powerless to properly perform its functions. The ultimate end of such a trend will be a break-down of the system as we see it now and a further tendency toward Federalized control, which is a step further removed from the consumer and which would effectually prohibit the proper functioning of the municipalities of Ohio as contemplated within the Constitution hereinbefore referred to.

With these facts in mind, therefore, it is the opinion of the Commission that the three motions submitted by the City of Columbus should be sustained.

Mr. Turner: Note an exception to the sustaining of each and every one of them.

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[fol. 3044] COLLOQUY

Mr. Turner: If the Commission please, we desire to offer in evidence Exhibit No. 78, which is a statement of the public Service Commission of West Virginia to the Supreme Court of Appeals of West Virginia. This is certified by the secretary and chairman of the Commission.

Mr. Bricker: What do you mean by "statement"?

Mr. Turner: Under the practice, and Judge Ritz will correct me if I did not state it correctly, under the practice in West Virginia, when the Public Service Commission has made a finding, and the matter in any way comes into the

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[fol. 3045] Supreme Court, it is the duty under the statute, which is cited in this Exhibit, for the Commission to proceed to state, to make a statement, of its findings, which is transmitted to the Supreme Court. Now, in this statement the Commission shows the valuation which it puts upon the property of the United Fuel Gas Company in West Virginia. As I take it the United Fuel Gas Company is subject to the jurisdiction only of the West Virginia Commission. This finding is dated January 3rd, 1931, and it sets forth the findings of the Commission as to the valuation of that property as of December 31st, 1928. We will proceed to follow that up with all the additions, that is, the net additions that have been made to the property since that time.

Commissioner Bricker: What did the Supreme Court of Appeals do with this valuation, or is it pending?

Mr. Turner: It is pending, but so far as the Commission is concerned, it is final.

Mr. Butler: The Supreme Court suspended the rates, did they not, pending appeal?

Mr. Turner: Well, Judge, you can tell me that.

Judge Ritz: Partially suspended.

Mr. Turner: Partially suspended the Judge says but that does not effect the valuation.

[fol. 3046] Mr. Butler: Is this the way you are going to show the inventory and appraisement of the United?

Mr. Turner: Once more, sufficient unto the day is the evil thereof. I claim that this is material in this case.

Mr. Butler: Well, if Your Honor please, we have no technical objection, that is if this be competent, if this be

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[fol. 3047] proper, of course, this is a correct copy.

Mr. Turner: You are not objecting to the certification and so forth?

Mr. Butler: Oh no. The only advantage about this as I see it is that it brought Judge Rich up so that we could all meet him, and that makes us all happy. As Your Honor knows, the matter has been appealed to the Supreme Court

of West Virginia. I have assumed the rates were suspended. Judge Rich, who knows, says they were practically suspended. But, of course, as we argue, this has nothing to do with the question before us. But it may be that Your Honors will want it, and for whatever use it is proper to make of it, you will consider it. I cannot imagine any use that it has, more than any other decision of the Commission in West Virginia, of which I assume the Commission would take judicial notice if it had been referred to by volume and page. This is not the opinion.

Mr. Turner: No, no, this is a statement required by law.

Mr. Butler: The opinion is a separate thing.

Mr. Turner: Yes.

Mr. Butler: Now, there was a statement of the minority member of the Public Utilities Commission. Have you a certified copy of that?

Mr. Turner: There was no such statement so far as I am advised. There was a dissenting opinion by a man who did not agree with the majority in scaling down, as I understand it, the valuation. There isn't any part of it here; I mean that that is not any part of this statement. It was not certified to the Supreme Court. You have the state-

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[fol. 3048] ment here. It is notice of record that Commissioner Neathkin does not concur in the foregoing order. That is all there is to it.

Mr. Butler: Very well. You say he has no right to certify his separate finding to the court.

Mr. Turner: I would not make that statement.

Judge Rich: He wrote an opinion.

Mr. Turner: But not this statement.

Judge Rich: Under our statute, if I might be permitted just a moment, when the Public Service Commission makes findings of fact and fixes rates, if there is an attempt to review that by the Court of Appeals; a petition is filed in the Court of Appeals for that purpose, and the review in that is a matter of right. Upon that petition being filed in the Court of Appeals, the statute requires that the Commission, within ten days, I believe, or thirty days, or something like that—I have forgotten—shall certify to the Supreme Court of Appeals of the state the original papers upon which it acted, together with its findings and the reasons for that

order which it entered. And this paper is that certificate of findings and the reasons for them.

Now, as stated in that order, one of the Commissioners did not agree with the two who make these findings. Of course his disagreement is not the findings of the Commission. The conclusions of the two are. Now he did file a dissenting opinion. He wrote a dissenting opinion. I have a copy of it. It was not printed. When he did file it, he presented copies to a number of people, but he said he did not wish yet to have it printed. He wanted to make some alterations and changes in it, and for that reason it has never been printed.

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[fol. 3049] Mr. Butler: As I remember, Judge, the Public Utilities reports last week said that he had filed his statement with the Supreme Court.

Judge Rich: Oh yes.

Mr. Butler: I am speaking from memory.

Judge Rich: Oh yes, that is the opinion I am talking about, but it has never been printed, for the reason that he withdraw it to make some alterations and changes in it.

Now, so far as the suspending of the rate is concerned, Mr. Butler, the situation is this. That application was filed in April, 1929. The United Fuel Gas Company presented its valuations, its statements of income and return. The rate was to take effect on July 1st, 1929. We completed our case some time in June, 1929. After a couple of weeks of hearings scattered along at different times.

The protesting cities, when our hearings were concluded in the latter part of June, 1929, asked that the rate be suspended and not allowed to go into effect on the first day of July. We resisted, but the Commission said, "we will suspend the rate as proposed, but there is such a showing made here as convinces us that your property is being confiscated, and we grant you an increase which amounts to about 50 per cent." That rate was allowed, that 50 per cent increase was allowed by the Commission, as I say, in lieu of the rate proposed.

Commissioner Bricker: You mean 50 per cent of the increase asked for 50 per cent of the former rate?

Judge Rich: 50 per cent of the former rate. The former rate was 20. They increased it to 30. They increased it

ten cents. After they concluded their hearings, they found upon examination of the expenses and returns for the

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[fol. 3050] year ending I believe August 31, 1930—that was the last year they could get to—maybe September 30, 1930—anyway they took the last full year they had returns from, and they found, after making the allowances they did, the valuations, that the temporary rate, or the rate which they had allowed to go into effect on the first day of July, 1929, did not furnish quite enough by a hundred and some thousand dollars, I believe, of the amount that the company was entitled to receive. They found that the rate we proposed would furnish too much. So they did not put in effect either the rate they had put temporarily in effect on the first day of July or the one we asked, but they put in effect another rate, which, in their view, would raise this hundred thousand dollars directly.

Now, that is the rate that the Supreme Court, when they granted the appeal, suspended, that part of the rate, and left the rate that granted the 50 per cent increase stay in effect.

Commissioner Bricker: That temporary rate then fixed by the Supreme Court is a 30 cent rate.

Judge Rich: Yes, that is the lowest part of it. It goes up. You understand in some of the cities—in the city of Charleston it is 30 cents; in the city of Huntington it is 31 or 32; in some of the cities, 35; some places up as high as 40. I say 30 cents, because that happens to be the town I live in and that is the lowest rate there is.

Commissioner Bricker: Is that the gate rate or the rate to the consumer?

Judge Rich: The rate to the consumer.

Commissioner Bricker: Yes.

Judge Rich: The cost of distribution is about six or seven

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[fols. 3051 & 3052] cents, but we burn some gas down there. One of our consumers burns about two hundred thousand a year, and one of your consumers burns about 70. So our cost of distribution is very much below your cost.

Commissioner Bricker: The rate then fixed by the majority of the Commission was what it will show in here, I presume? The rate fixed by the majority of the Commis-

sion is not substantially different from the temporary rate that was put into effect.

Judge Rich: The rate fixed by the majority of the Commission is not substantially different from the temporary rate that was put in effect except it fixes a rate of 35 cents for the first one thousand cubic feet.

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[fol. 3053] And also—

W. J. Hightower, called as a witness on behalf of the Columbus Gas & Fuel Company, being first duly sworn, testified as follows:

Examined by Mr. Turner:

Q. What is your occupation, Mr. Hightower?

A. Assistant Secretary and Assistant Treasurer of the United Fuel Gas Company.

Q. Located where?

A. At Charleston, West Virginia.

Q. What is the United Fuel Gas Company, a West Virginia Corporation?

A. Yes, sir.

Q. How long have you been connected with the gas industry?

A. About 17 years, between 16 and 17 years.

Q. How long have you been connected with the United Fuel Gas Company?

A. About that period.

Q. Have you made an analysis of the cost to the United Fuel Gas Company of gas delivered by that company to distribution systems and to other transmission systems?

A. I have, yes, sir.

Q. I hand you what has been marked as company's Exhibit 80 and ask you to state if that is such exhibit?

A. Yes, sir, that is such exhibit.

Q. That was made under your supervision, was it?

A. Yes, sir.

Q. Now, I want you to take page 3 of that exhibit. There are some explanatory notes preceding the tabulations in this exhibit. Are these explanatory notes made by you?

A. Yes, sir.

Q. Are they correct?

A. They are.

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[fol. 3054] Q. Now, turn to page 3 please. I would like to have you explain the items included in and which make up the $8,995,597.00, being the total operating expenses before taxes and return, found on the middle of that page in the second column?

A. The item of purchased gas expense, amounting to $1,984,759.00, represents the amount paid for gas purchased by the United Fuel Gas Company during the year 1930.

Production system expense, amounting to $2,702,188.00, represents the amount expended in operating and maintaining the production system for the year 1930. The item of non-productive well drilling expense represents the actual money paid during the year 1930, for dry holes after giving effect to the salvage value of the material returned. These three items total $4,799,972.00.

Q. Or an average cost per M c. f. of gas produced and bought?

A. Of 9.56 cents.

Q. Go right on down with the other items.

A. The item of transmission expense in the amount of $745,453.00 represents the cost of operating and maintaining the transmission system for the year 1930 and amount to 1.48 cents per M c. f.

Q. All right. General administrative expense.

A. General administrative expense in the amount of $426,200.00 represents that portion of the total of such expense which is applicable to the production and transmission properties. This item gives an average cost of .85 per M c. f.

Other general expense amounts to $319,497.00. It is also that portion of the total expense of that nature applicable to the production and transmission properties. Such general expenses include reserve for injury and damages, in-

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[fol. 3055] surance, employees' group insurance, relief and pensions, public utility expenses, and so forth. This item gives an average cost of .64 cents per M c. f.

The item of annual allowance for depreciation, amounting to $477,132.00 is further explained on page 14.

The total amount of depreciable property contained in the present value of the production and transmission system property is $40,035,252.00. Applying to this amount the rates used by the Public Service Commission of West Virginia in their case No. 6956 produces a total of $477,132.00.

Q. For depreciation?

A. For depreciation allowance?

Q. Yes.

A. Which is 1.12 per cent. of the production and transmission property, and five per cent. of the general property applicable to the production and transmission systems. This item gives an average of 4.43 cents per M c. f.

Q. Wait a minute.

A. Of .95. I beg your pardon. .95 cents per M c. f.

Q. Go right ahead now.

A. The next item of anual allowance for amortization in the amount of $2,227,323.00 is further explained on page 16. To those items of the rate base which are subject to amortization a rate of 4.15 per cent. has been applied, being the rate used by the Public Service Commission of West Virginia in their case No. 6956. This results in the total figure of $2,227,323.00. This item gives an average of 4.43 cents per M c. f.

This makes a total of operating expense before taxes and return of $8,995,597.00, which gives an average cost per M c. f. of 17.91 cents.

Q. Now explain the item of taxes there on page 3.

A. Total taxes for the United Fuel Gas Company in the

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[fol. 3056] amount of $1,588,203.00 is made up of property tax, auto, production, West Virginia Public Service Commission fee, license tags and Federal income tax.

Q. Now, with the exception of the Federal income tax, are those items all taken off of your books?

A. They are.

Q. And how about all of the other items on this page?

A. They have all been taken from the books.

Q. Now, explain the method of arriving at the Federal income tax?

A. The Federal Income tax is shown in detail on page 12.

Q. All right, if it is shown there that will be sufficient then?

A. It is shown in detail there.

Q. Then you have a total operating expense and taxes before return of $10,583,800.00; is that correct?

A. That is correct.

Q. And that gives you a cost of 21.07 cents per M c. f.?

A. It does.

Q. Now, what is the amount of an eight per cent. return upon the rate base?

A. The eight per cent. return on the rate base of $55,165,781.00 is $4,413,262.00. This is the rate used by the Public Service Commission of West Virginia and amounts to 8.78 cents per M c. f.

Q. Now, that gives you a total cost of service of $14,997,062.00, does it?

A. It does.

Q. And a rate per M c. f. of 29.85.

A. It does.

Q. Now, you have some items down there in red figures. Just explain what they are.

A. The Pittsburgh and West Virginia Gas Company pays to the United Fuel Gas Company a differential on the gas delivered to them at Cedarville for a like amount of gas which the Pittsburgh and West Virginia Gas Com-

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[fol. 3057] pany delivers to the United Fuel Gas Company at Maytown, Kentucky. This results in a charge to the Pittsburgh and West Virginia Gas Company of $739,046.00——

Q. $846.00, isn't it?

A. $739,846.00.

Q. Now, let me see if we get the picture of that. The Pittsburgh and West Virginia Gas Company has a gas field that is not accessible to its own transportation lines?

A. Yes, sir.

Q. But is accessible to your transportation lines?

A. That is correct.

Q. You take that gas and you give them from a field that is accessible to their transportation lines an equal amount of gas?

A. That is true.

Q. Then you charge them as if there were a transportation of $739,846.00; is that correct?

A. Yes, sir.

Q. You have credited that as part of your income here?

A. We have deducted it from our expenses.

Mr. Butler: How much is that per M c. f.?

The Witness: That is on a sliding scale, depending on the amounts so exchanged.

Mr. Butler: Is there a written contract?

Mr. Turner: I suppose so. I don't know, Mr. Butler.

Q. Now, you have given a credit also of $99,293.00 for gas used by company drilling and abandoning wells. Tell the Commission what that is.

A. That represents the amount of gas used by the company in drilling and abandoning its own wells.

Q. Then you have a total under cost of service, after deducting these credits, of——

A. $14,157,923.00.

Q. Which is how much per M c. f.?

A. An average cost per M c. f. of 28.18 cents.

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[fol. 3058] Q. What were your total deliveries for the year?

A. 50,238,831 M c. f.

Q. Let us turn to pages five and six now. I want to ask one question I may not have made clear on page 3. What would be the price then that the United Fuel Gas Company would have to sell gas at points of delivery to distribution systems and to other transmission systems in order to meet its operating expenses and receive a return of eight per cent. on the present value of its production and transmission property?

A. It would be necessary to sell the gas at 28.18 cents per M c. f.

Q. Now, turn to pages 5 and 6 of that exhibit and tell the Commission what is shown there?

A. On pages 5 and 6 are shown the present value of the property as determined by the Public Service Commission of West Virginia, as of December 31, 1928, to which has been added the net book additions for the year 1929 and for the year 1930.

Q. Now, when you say net book additions, you mean net cost of those book additions?

A. I do.

Q. And the net additions as well as net cost?
A. Yes, sir.

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[fol. 3059] Q. Now proceed with an explanation to the Commission of pages 8, 9 and 10 of this Exhibit.

A. These pages contain the detail of the natural gas purchased for re-sale, production system expense, the non-productive well drilling expense, the transmission system expense, as they appear on the books of the United Fuel Gas Company. As to the general administrative expense and other general expense, these show the amounts applicable to the production and transmission system.

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[fol. 3060] Q. Now turn to page 12 and give a brief explanation of the page. Oh, you have already referred to that as the computation of the Federal income tax, so we do not need to spend any time on that. Turn to page 14.

Chairman Geiger: Just one minute on page 12. The Federal income tax is $501,808.00, is that correct?

Mr. Turner: That is a computed figure, yes sir.

By Chairman Geiger:

Q. How much did you actually pay?
A. I don't believe I have that figure with me, Judge. I have a whole lot of figures here.
Q. Was it $801,808.00?
A. No, sir.
Q. Half that much?
A. I don't think so, no, sir.
Q. Do you know what it was?
A. Not exactly. I didn't expect that question to be asked.

Chairman Geiger: I should think what you did actually pay would be a better index than what you should pay.

Mr. Turner: Answering for the company, that is a——

Chairman Geiger: Let him answer.

Mr. Turner: That is a law question.

Chairman Geiger: Hold up your hand and be sworn.

Mr. Turner: Oh no, I am stating my objection.

Chairman Geiger: There is no reason why this cannot be tried in the orderly way.

Mr. Turner: That is what I want, is to have this case conducted in the ordinary way, and we haven't had it.

Chairman Geiger: I am very much distressed that you have not.

Mr. Turner: I am the one that is distressed.

Chairman Geiger: When the witness is on the stand the

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[fol. 3061] lawyer does not assume to answer the question.

Mr. Turner: I am not assuming to answer the question. I am objecting to your question. You have not asked a single question for information. You had the same thing up before when you produced this question of what the income tax would be if we got the return. You certainly understand, Mr. Commissioner, and you are asking the same questions again here. We have told you in this witness' testimony that those figures were not taken from the books and we could not give you the expense unless we did figure it this way. If we got a return, this is what the income tax would be.

Chairman Geiger: Now, as I understand, Mr. Turner, if you don't get excited and keep calm about it——

Mr. Turner: How can I?

Chairman Geiger: I don't know. Your temperament all the way through or your disposition—but I will endeavor to keep quiet if you will permit so that we understand what he is testifying to. On page 12—if you have any objections, object; don't answer.

Mr. Turner: My objections were stated in the first part of this case, that we had the right to present the matter to this Commission, and I was presenting it when interrupted, and you told me a dozen times during the case you were going to let me introduce my evidence without interrupting.

Chairman Geiger: You are passing along so fast we can't get it.

Mr. Turner: One minute you want me to pass fast and then next moment no.

Chairman Geiger: You will acquiesce surely in the Commission's at this time asking on page 12 as to how much

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[fol. 3062] income tax you really did pay as against the estimated amount of $601,808.00.

Mr. Turner: This witness answered that he did not know. If it is material we will get it for you.

Chairman Geiger: You answered no.

Mr. Turner: The witness answered no ahead of me.

Chairman Geiger: No, I don't think he did.

Mr. Turner: We will depend on this record when it is made up.

Q. Could you have shown the expenses by using the figured income here, by using the book figures of the income tax?

A. No, sir, because the books figures do not include an eight per cent. return on the value as shown by the Public Service Commission of West Virginia.

[fol. 3063] Q. Page 14.

A. Page 14 shows the method by which the amount of $477,132.00 allowance, annual allowance for replacements, retirements, and so forth, was determined.

Q. Where did you obtain the figures 1.12 and 5 per cent.?

A. From the report of the Public Service Commission in case No. 6956.

Q. Proceed now with page 16.

A. This page shows in detail how the amount of $2,227,323.00 was obtained by annual amortization expense.

Q. Is that the rate, 4.15, the rate allowed by the West Virginia Commission?

A. It is, yes, sir.

Q. In case No. 6956?

A. Yes, sir.

Q. Now explain page 18.

A. Page 18 shows the book value of leaseholds as adjusted by the West Virginia Public Service Commission as of December 31, 1928, plus net book additions for the years

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[fol. 3064] 1929 and '30.

Q. Now, who made the adjusted valuation of the leaseholds?

A. The Public Service Commission of West Virginia.

Q. In this Exhibit?

A. No. 69—no, I don't know what it is.

Q. No. 78 that we have here.

A. Yes, sir, that is right.

Q. Now go to page 20.

A. Page 20 shows the method used in determining the amount of working capital and is the same method as used by the Public Service Commission of West Virginia.

Q. In this case?

A. In case No. 6956.

Q. Now, I want to call your attention to Exhibit No. 78.

Mr. Butler: Mr. Turner, you have not offered this in evidence yet, have you?

Mr. Turner: Not as yet, no.

Mr. Butler: All right.

Q. And to pages, first, ten, and then fifteen. Now, do you know whether those figures set forth on page 10 are the figures showing the company's valuation and the protestant's valuation in this case No. 6956?

A. They are, yes, sir.

Q. I call your attention now to page 15. Are those the figures that you have used in your Exhibit No. 80?

A. They are, yes, sir.

Chairman Geiger: Mr. Turner, if I may be permitted, you said, as I understood your question, are those the figures you have used——

Mr. Turner: On page 17.

Chairman Geiger: On page 10.

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[fol. 3065] Mr. Turner: Oh no, no.

Chairman Geiger: I beg your pardon. I thought you said that.

Mr. Turner: Pardon me. I think the record will show, Your Honor, that the figures used are those taken from page 15.

The Witness: 14 and 15.

Mr. Turner: I asked a question about page 10, as to whether he knew that the figures set forth on page 10 were the company's valuations and the protestants' valuations?

Chairman Geiger: Yes.

Mr. Turner: Then I asked him, and I find that I made a mistake in that—I asked him if he used the figures on page 15. As a matter of fact the total is on page 15, but some of the detail is also on page 14.

The Witness: Yes, sir.

Q. Now, you have used in your Exhibit 80 the figures found on pages 14 and 15 of Exhibit 78?

A. Yes, sir.

Mr. Turner: Does that straighten it out, Your Honor?

Chairman Geiger: Yes, sir. We got confused on the pages.

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[fol. 3066] Cross-examination.

By Mr. Butler:

Q. Mr. Hightower, you are Assistant Treasurer and Assistant Secretary of the United?

A. Yes, sir.

Q. How long have you been with them in that capacity?

A. Since 1920.

Q. So you have been through all of these rate cases?

A. Unfortunately, yes.

Q. You are not connected with the Columbia in any way, the Columbia Gas & Electric?

A. What do you mean by "anyway"?

Q. The Columbia Gas & Electric Corporation.

A. Of course, they own a controlling interest in our company there. If that is relationship, I am related.

Q. You have no official connection with them?

A. No, sir.

Q. You have no official connection either with the Columbia Engineering & Management Corporation?

A. Oh yes, they pay my salary.

Q. Oh, they do?

A. Yes, sir.

Q. How long have they paid your salary?

A. Since 1926.

Q. They nominate you as it were?

A. That is right, yes, sir.

Q. Do you serve any other companies down there except this one?

A. Yes, sir.

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[fol. 3067] Q. What other ones do you serve?

A. I will try to give it to you from memory. The Virginia Gasoline & Oil Company, The Huntington Development and Gas Company; The Warfield Natural Gas Company; The Central Kentucky Natural Gas Company; The Bracken County Gas Company; The Huntington Gas Company. That is at least all of the important ones.

Q. You can telegraph Mr. Turner if you think of any others.

Mr. Turner: I might say to you, Mr. Butler and to the Commission that the Commission has allowed that manage-

ment fee in this case. You will find it in this thing that I have introduced Exhibit No. 78. I think they divided it in two.

Mr. Butler: We will take off the other half.

Mr. Turner: I will refer you to Bertrand Russell's argument on infinity on the other half. He proves you never get either.

Q. These companies you mention are subsidiaries of what company?

A. The Columbia Gas & Electric.

Q. Or the United?

A. The Columbia Gas & Electric, with the exception of the Warfield Natural Gas, which is the United.

Q. The Warfield Natural Gas is a producing company?

A. Yes, sir.

Q. It is controlled by the United?

A. Yes, sir.

Q. The Warfield is also the distributing Kentucky Company, isn't it?

A. Yes, sir.

Q. Has charge of practically all of your distribution in Kentucky?

A. Well, with the exception of the Central Kentucky Natural Gas Company, which is a good deal further removed from both of them.

Q. What is that new company that the Columbia got pos-

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[fol. 3068] session of down there recently?

A. I read that in the papers. I believe the Inland Gas Company and associated companies. All I know is what I see in the papers. I presume you must have read that.

Q. Do you mean to say you do not believe what you see in the papers?

A. No, I would not go so far as that, but I do not believe everything I see.

Q. Did you believe that?

A. I have reasons to believe it is substantially true, but I mean I am not financially connected with it.

Q. Has the Columbia recently taken over the United Carbon, too?

A. I don't think so, no, sir.

Q. You did not read that in the paper?

A. I read that they had some contracts with them. Of course, that contract is with the United Fuel Gas Company so I know they made a contract.

Q. What kind of contract?

A. To purchase gas.

Q. That is, the United to purchase gas from the other?

A. Yes, sir.

Judge Rich: Which United do you mean?

Mr. Butler: United Gas & Fuel. They say it is the United Fuel Gas Company.

Mr. Turner: Are we clear on that, that the United Fuel buys from the United Carbon, or have we got it around the other way?

Mr. Butler: No, I think you state it correctly.

Q. Is that a large production?

A. It will be, yes, sir.

Q. I do not put that in an offensive way, but what do you mean by a large production, or rather what did I mean by 1656

[fol. 3069] a large production?

A. I haven't actually read the contract, although it is in the files. I will read it. There is a note on my desk to read it. So I do not know the actual deliveries excepted from the contract, although I understand it will be large.

Q. Will you be good enough to let us read it, too?

A. Surely so far as I am concerned, yes, sir.

Q. I fancy all of these companies of which you have spoken and with which you are associated have engineering and management contracts with the Columbia Engineering & Management Corporation?

A. With perhaps—yes, substantially all, yes, sir. There may be some exceptions in the very small companies.

Q. Do you happen to have there the figures showing the amount the United paid?

A. Yes, it is in the exhibit, Mr. Butler. Do you want me to call it?

Q. Yes. What page?

A. On page 9, Mr. Butler, you will find the figure you desire under the heading of general administration expense.

Q. That is not the total feet?

A. No, sir, that is the total feet apportioned to the production and transmission departments, Mr. Butler.

Q. No doubt you know the proportion. What was the total amount paid?

A. Approximately $293,000.00.

Q. Now, is that the amount which you say the Commission cut in two?

A. I do not believe they got the complete year for 1930. They did cut a yearly amount in two. I don't believe it was the exact figure. It was the figure that represents the same period of time, but perhaps a different year, the fiscal year rather than a calendar.

1657

[fol. 3070] Q. Is this the amount shown on page 9 of your Exhibit 80 as reduced by the Commission or as prior to reduction?

A. Prior to reduction.

Q. Now, Mr. Hightower, I should like for you to tell me briefly, if you can, because I can not now stop to examine this—I dare say you have it set out—but tell me briefly what part of the figures of company's Exhibit No. 80 which you have produced here and about which you have been testifying, what part is made up of figures settled as you say, fixed by the West Virginia Commission, and what part is represented by your figures?

A. I am sure that that is in the record, Mr. Butler, but I will endeavor to go through this again for you if you wish. It will take a little time.

Q. Can't you state it in a more compact form? Of course, if you have to repeat it, then I might as well wait until the record is out, you see. There is no criticism in that. Haven't you some general way of stating it?

A. If you will turn to page 3, you will find that the annual allowance for depreciation—in that once more they are to intermingle that it would be awfully hard to tell which proportion of the annual amount for depreciation is allowed on book additions and which part fixed by the Commission. They are so mingled and intermingled I am afraid I don't know how to answer your question.

Q. Just suppose you had not testified and you had *had* handed me that and said, "Now, there is an exhibit, and in that I have used certain conclusions reached or fixed by the Commission of West Virginia." And suppose I said,

1658

[fol. 3071] "Mr. Hightower, just kindly tell me in a gen-

eral way the basic things that you have taken as found by the West Virginia Commission." Could you do that in a brief form?

A. I think so, if it will satisfy you. On pages 5 and 6 you will find that we started with the valuation as determined by the Public Service Commission of West Virginia and added the net book additions for the years 1929 and 1930. That covers everything except the leaseholds. On page 18 we did exactly the same thing. Then coming back to page 3, in which we made application of those figures, then we made application on the total of those figures, and it would take some computation to divide that. Is that sufficient, Mr. Butler?

Q. Well, yes and no.

—. I don't want to say no, because that is a little unfair to you. I know the difficulty of the question I am putting up. It is hard for you to educate a layman right away. I am trying to answer the question, as you asked it.

Q. You are, very thoroughly. You took the allowance of the Commission for amortization for example——

A. No, we applied their rates to the new figures, which resulted in the description I made on pages 5 and 6 and page 16 and page 18.

Q. In this rate case down there did you have an inventory and appraisal?

A. Surely.

Q. You have that available, haven't you?

A. It is in our files in our office. It is in the records of the Public Service Commission case.

Q. You have not produced that here?

A. No, sir, we have not.

Q. In other words, you have an inventory and appraise-

1659

[fol. 3072] ment which you could present here without further special trouble, hadn't you?

A. On page 10 appears the summary of that appraisal, Mr. Butler, on page 10 of this No. 6956 case.

Mr. Turner: Exhibit 78.

The Witness: Exhibit 78.

Q. Now, you are not trying to evade, but you lead off into this. Now tell me whether you have available a detailed inventory and appraisement.

A. We have it on file in our office, yes, sir.

Q. This was made up for 1930 rather than 1929, wasn't it? Was there any special reason for that?

A. Except that these are the latest figures available.

1664

[fol. 3073] Q. Now, Mr. Hightower, all I can do, and I appreciate the fact that my request will be passed upon by your superior, all I can do is to ask you to bring a detailed inventory and appraisement of the United Fuel Gas Company property.

Judge Rich: We have several.

The Witness: As of what date, Mr. Butler?

Q. Well, I will take it December 31, 1929.

A. I don't know whether we have that.

Q. And if it is too difficult to adjust as to that date, I shall not try to make you too much trouble. We will try to get together. Now, this annual allowance for amortization, while the figures are yours, the method of determination is that fixed by the West Virginia Commission. I am referring to page 3, where it says, "Annual allowance for amortization."

A. The detail is on page 15.

Q. Page 15?

A. Or 16. That is it, yes sir.

Q. The only items in your alleged rate base of 55 million dollars plus that are not amortized are those five items set out on page 16?

A. That is right.

Q. Well, I fancy then there is no need of my asking you why you amortize this. You do it just because the Commission allowed it?

A. Yes, but I think they give a good reason for it.

1665

[fol. 3074] Q. Well, of course, I was not asking for your approval of their reason for the moment? Do you——

A. I have used their plan, yes, sir.

Q. Well, I want to be fair with you. Do you want to be understood as testifying personally to this amortization?

A. That is right.

Q. Or do you merely want the Commission to understand that you are applying the rule laid down by the Commission?

A. I agree in the main with their findings in this connection.

Q. You say "In the main." Isn't it high enough?

A. That is one reason, yes, sir.

Q. What is the other reason?

A. I think inasmuch as rates are made for the future, incomplete construction should be included in it, and I have deducted it.

Commissioner Bricker: You say incomplete construction?

The Witness: Yes, sir, it is ready very shortly after the period and it should be included.

Q. That is only $68,000.00?

A. Yes, it isn't material in this case. Sometimes it is.

Q. It might become a very large item?

A. It might.

Q. So that the real objection you have to the Commission signing is that the rate of amortization is not high enough?

A. Yes, sir.

Q. Just how high would you put it?

A. I am not prepared to say.

Q. Is the sky the limit?

Commissioner Bricker: What did you ask for in this case?

The Witness: I believe five, a little over five per cent, if my memory is correct there, perhaps five and one-half

1666

[fol. 3075] per cent.

Q. On how many years basis were you asking for amortization?

A. Approximately eighteen years.

Q. Approximately eighteen?

A. Yes.

Q. How much of this alleged rate base of $55,165,781.00 is used and useful in delivering gas to the Ohio Fuel Supply Company or the Ohio Fuel Gas Company?

A. I would be unable to determine that on this short notice, if at all.

Q. How?

A. I would be unable to determine that on this short notice, if at all, because all of our lines are really one unit. The gas is commingled and the lines can be used to go

either direction, that is, transportation comes either direction, according to the needs at any particular point.

Q. Plenty of gas lines, aren't there?

A. We think we will have enough to supply our peak loads, yes, sir.

Q. I don't suppose except for a few little towns that Ohio sends much gas down to West Virginia, does it, Mr. Hightower?

A. I don't know that Ohio sends any to West Virginia in our system.

Q. So you have no way at this time of really giving a final answer to the question?

A. I doubt it. I doubt if it could be answered scientifically. It would be an engineering problem perhaps rather than accounting.

Q. I suppose from the accountant's point of view allocation is sort of a red flag?

A. We depend on it a great deal, yes, sir, and usually with good reason.

Q. Have you done any allocating here? You spoke of allocation. I thought I heard you use that term?

A. Perhaps I used proportion. It means the same thing,

1667

[fol. 3076] Q. How?

A. Perhaps I used apportion. It meant the same thing.

Q. Well, how did you allocate that service fee; what was your basis for that?

A. On the basis of expense.

Q. What do you mean by that?

A. The expense that the production and transmission departments bear to the total expense. That is the usual method of apportioning expense or allocating expense of this nature.

Q. Don't you carry some accounts that you must divide up in order to give a proper production to distributing systems and a proper production to production and a proper proportion to transmission?

A. Oh yes, all of the charges go there.

Q. On what basis do you make those allocations?

A. They are the direct charges, if I understand your question correctly, those direct charges that apply to those departments go directly to the expenses in that department; and then the overheads, the general administration

expense and the other general, which apply to all departments, they are the only ones that are allocated.

Q. How do you allocate that?

A. On the basis as I said, Mr. Butler, and I shall repeat it, on the basis of the portion that the production and transmission departments bear to the total expense, and that naturally gives a balance to the distribution department.

Q. No doubt you are right, but I am unusually dumb today. What is your total production of gas, meaning the gas that you produce and the gas that you purchase?

A. I don't have that division.

Q. Mr. Hightower, what I have in mind, and your coun-

1668

[fol. 3077] sel will tell you, the Fuel Gas Company in one of its exhibits did a rather good job in dividing it up as I remember, so much total, so much with Ohio gas, so much came from West Virginia, so much went to independent subsidiary companies, so much went to companies that were not subsidiaries, which you say were used in their own distributing system. Now that in a brief way is what I am getting at.

A. I don't have that with me.

Q. You can get that?

A. Oh yes.

Q. Make a note of it.

A. I will say, however, that they did not divide their general expenses on any such basis as that.

Q. How?

A. They did not divide their general expenses on such basis as that.

Q. That is very probable. We have a feeling that for a rate case at least we can prove the bookkeeping a trifle. We may be wrong.

(No reply.)

Q. Now on page 3, summary of cost of service, three items there I wish you would break up for us, purchased gas expense, production system expense, non-productive well drilling expense. Is that all broken up properly in this?

A. I think so, yes, sir, so far as it could be broken up in a small exhibit like this. On pages 8, 9 and 10 they carry the detail of our expense account.

Mr. Turner: Those are carried under the number and names used by the West Virginia Commission.

The Witness: That is right.

Q. By the way do their numbers of the uniform utility accounting correspond to our numbers in Ohio?

1669

[fol. 3078] A. I don't recall that, although I have a book on the Ohio Commission system. There is no main difference.

Q. Will you mail me one of those books from West Virginia?

A. Yes, sir.

Q. That will enable us to check up the differences?

A. You will find no material differences.

Q. Mr. Hightower, looking at pages 8 and 9, it seems that you have broken that up as you say, and it seems to me that I shall find there substantially what I want except, take the first item on page 8, No. 369, total paid to others for gas purchased; I do want the details of that.

A. From each company?

1688

[fol. 3079] Mr. Butler:

Q. What is this inventory and appraisement; how large is that; how many volumes of that?

A. Oh, from memory, it must be about a dozen, more or less; it has been some time since I have seen it.

Q. You did not open the closet door and look at it again after you went back the other day?

A. I did not, no, sir.

Q. You know very well that if your executive officers permitted you, you could produce the detailed inventory and appraisement here.

A. It is not in my custody.

Q. Well, I know, but now—just tell the Commission now, just as man to man——.

A. Our executive officers instructed me not to furnish it.

Q. Well, what man instructed you. Who are those executive officers?

A. H. A. Wallace is the president of our company.

1689

[fol. 3080] Q. Well, you say "executive officers;" what others?

A. John G. Pew is the chairman of our Board of Directors.

Q. P-e-w?

A. Yes, sir.

Q. Does he have his office down there?

A. No, sir.

Q. Did you get in touch with him since you left the witness stand?

A. No, sir, I did not.

Q. How did he instruct you; by letter?

A. No; I got it through Mr. Wallace, our president.

Q. Did Mr. Wallace send you a letter?

A. No, sir, he did not.

Q. Well, what did Wallace say?

A. He does not usually transmit his orders by letter.

Q. No, not in a case like this.

A. Not in any case, Mr. Butler.

Q. Well, that is good practice; tell him I commend him.

A. Yes.

Q. What did he say to you?

A. Of course I did not write down the words, Mr. Butler. I certainly——

Q. You mean you are cautious?

A. But I certainly got the import of it, and I have not done it.

Q. Well, what did he say?

A. Well, that is the import.

Q. Did you have a long conference with him?

A. The import of it was not to supply the data.

Q. Why not?

A. Well, of course, that is his—that is up to him, for his reasons; I do not usually ask the president of the company what his reasons are when he gives me orders, Mr. Butler.

1690

[fol. 3081] Q. Is that the reason you have held your job so long?

A. That is partly the reason, yes. If you knew Mr. Wallace you would appreciate that answer too.

Q. Well, I am beginning to get acquainted with him, at long range.

A. You will find him very fine when [illegible] instructions.

Mr. Butler: Are you going to produce him as a witness, Mr. Turner—Mr. Wallace?

(No response.)

Mr. Butler: Well, there is no answer. I cannot force the attorney to answer.

Mr. Turner: Did you just find that out?

Mr. Butler: No, I discovered it before.

By Mr. Butler:

Q. Did you have a conference—did you have a conference with Mr. Wallace?

A. No, sir.

Q. When did you see him?

A. Oh, I have seen him a number of times [illegible] here before.

Q. How many times did you talk about [illegible]

A. Just once.

Q. When was that day?

A. I think it was last Friday.

Q. Did you take up with him or did he just come [illegible]

A. Well, you can tell by the way the attorney [illegible] how it was done, Mr. Butler, I am sure.

Q. Well, no, I cannot quite; that is, you [illegible] with Mr. Wallace and Turner and Judge Ritz conferred with Mr. Wallace [illegible] got their heads together and passed the word [illegible] that the idea?

A. I would not say that Mr. Turner did.

Q. Well, Judge Ritz?

A. I would not be surprised.

Q. Well, I had that suspicion.

[fol. 3082] A. But I do not know that, of course, [illegible] present at any such conference.

Q. Did you have any executive committee [illegible] board of directors meeting since you were [illegible]

A. I think there was a board of directors [illegible] sir.

Q. When?

A. I haven't the minutes in my possession; I do not know where they hold it.

Q. What made you think there was a meeting then?

A. Well, it is my understanding that the board of directors passed on this motion.

Q. From whom did you get that understanding?

A. Well, I just inferred that from conversation with Mr. Wallace.

Q. Well, apparently then he did talk a little bit with you. Now won't you be good enough and just tell us what Wallace said?

A. I could not do that if I tried because I do not take these conversations down in shorthand like our friend the reporter here; it just could not be done, and I do not have a phonographic memory that quite details that.

Q. Are you very proud of that answer, Mr. Hightower—a man of your ability—saying you cannot in a general way—

A. Well, I have told you just the fact, Mr. Butler, that I was instructed not to give it, and I think man to man that ought to be sufficient for you.

Q. Well——

A. Now what do you care whether I walked up the steps to Mr. Wallace's office or whether I knocked at the door to get in, or whether I had to beg his pardon before I could get in there or not? That is not very important to this question—or whether he used three or four words.

1692

Q. Well, it just so happens that I want to know, and I think the Commission is interested in it, so that, if you will confine yourself just to evidence and not try to be a sifter of facts, we will get along a lot better.

A. I beg your pardon.

Q. Well, I have no criticism of you.

Chairman Geiger: Where did this conversation with you take place?

The Witness: I think last Friday.

Chairman Geiger: I say where?

The Witness: At Charleston, West Virginia.

Chairman Geiger: Mr. Wallace has not been here in Ohio?

The Witness: Not to my knowledge, No, sir.

Chairman Geiger: Now while we are waiting, I have just a question or two to clear up a matter in my mind. This says: "Detail information of appraisal of The United Fuel Gas Company as of December 31st, 1928, by Ford, Bacon & Davis;" was the appraisal made at that time, and is there an appraisal?

The Witness: Yes, sir.

Chairman Geiger: And for what purpose was it made?

The Witness: It is my understanding it was made for the West Virginia rate case of The United Fuel Gas Company.

Chairman Geiger: Well, was the appraisal introduced in that case?

The Witness: Yes, sir.

Chairman Geiger: And did it become public at that time?

The Witness: Well, it became a part of the records,

1693

[fol. 3084] Judge: I assume that is public.

Chairman Geiger: Well, may anybody look at it that wants to?

The Witness: I really don't know what their rules are over there.

Chairman Geiger: Well, is there a duplicate copy of that appraisement different from the one that was introduced in evidence in the case in West Virginia?

The Witness: Well, I have seen an extra copy, yes.

Mr. Turner: That is not his question.

(Question read.)

The Witness: Do you mean the figures different?

Chairman Geiger: I do not mean different; that is a bad word; is there another copy of it?

The Witness: Oh, yes, I have seen extra copies.

Chairman Geiger: Is it a typewritten copy or printed copy?

The Witness: Well, I think it is printed.

Chairman Geiger: You think it is printed?

The Witness: I think it is printed, or typewritten, I am not positive.

Chairman Geiger: So that the refusal to introduce it has no relation to the trouble that there might be in getting it and producing it?

The Witness: I do not think so, no, sir.

Chairman Geiger: It is perfectly available and easily secured if you wished to introduce it?

The Witness: Well, it is not—it has never been in my custody at all.

1694

[fol. 3085] Chairman Geiger: I know, but there is a printed copy of it somewhere, isn't there?

The Witness: I think so, yes, sir.

Chairman Geiger: So that it is not a matter of expense or trouble to produce it but a matter simply that Mr. President said he did not want to introduce it?

The Witness: That is right.

Chairman Geiger: All right.

By Mr. Butler:

Q. Now the next?

A. No. 7: a copy of the West Virginia Public Service Commission Classification of Accounts.

I have a copy of those books here; that is all I have.

And thereupon the volume above referred to was marked for purposes of identification herein as Company Exhibit No. 86.

Q. Now, there was another, "Statement of total production of gas and purchase of gas and sources of purchase."

A. Request No. 8 was for a statement of gas purchased for the year 1930, showing, first, the gas purchased from the affiliated companies, and then the balance from miscellaneous companies.

Q. Well, don't you have 1929? Are these all of 1930?

A. Well, it was my understanding that is what you asked for.

And thereupon the document last above referred to was marked for purposes of identification herein as Company Exhibit No. 87.

1695

[fol. 3086] The Witness: I wrote the questions down just as you asked the, Mr. Butler; I do not have the paper on which I wrote them now.

Q. Well, of course, this No. 87 just isn't anything at all.

A. ——

Mr. Turner: Didn't Allensworth say—Mr. Allensworth, as I understand, talked to both Mr. Hightower and Mr. Seyffert as to what he wanted on that.

Q. I said in the question: "Mr. Hightower, what I have in mind, and your counsel will tell you, the Fuel Gas Company, in one of its exhibits, did a rather good job in dividing it up as I remember, so much total, so much with Ohio gas, so much came from West Virginia, so much went to independent subsidiary companies, so much went to companies that were not subsidiaries, which you say were used in their own distributing system. Now that, in a brief way, is what I am getting at."

A. I will try to get that today, Mr. Butler; I may be able to get that from our work sheets.

Q. Get it for 1929.

A. I cannot get that today.

Q. Because all of our other matters are of December 31st, 1929.

Mr. Turner: He says he cannot get that today.

The Witness: However, my exhibit on which you are cross-examining me was for 1930.

Q. Yes, but I was going to request you to make that as of 1929. Mr. Turner suggested that I could easily transform it into 1929: Well, I thought I preferred to have you make the transformation, because since everything else will be of 1929, and as of December 31st, 1929, it is probably important that we hold to that date. Mr. Hightower,

1696

[fol. 3087] are you an engineer?

A. No, sir, I am not.

Q. You are an accountant, an auditor; does that express your work?

A. An accountant, yes, sir.

Q. You began with the United when Mr. Seyffert was there?

A. Yes, sir.

Q. And in your compilations, in so far as they deal with appraisements, you do not intend personally to speak?

A. No, sir.

Q. Now you have accepted the figures of the West Virginia Commission in this 1928 case?

A. In these exhibits I have.

Q. For inventory and appraisement?

A. Yes, sir.

Q. Have you accepted their allowances for operating charges?

A. No, because it applied to a different year. I took the year 1930 and made the application of their rules to it, or of their decision.

Q. Well, that is what I am getting at; for example, when you came to the fee of The Columbia Engineering & Management Corporation, you did not allow the whole of it?

A. Yes, sir, I included the whole of it.

Q. Well, the Commission did not, did they?

A. No, they did not.

Q. Well, why didn't you follow them then?

A. Well, I just didn't.

Q. Well, is it——

A. The question really did not come into my mind; I overlooked that.

Q. You overlooked——

A. Yes.

Q. It is rather a large sum to overlook, isn't it?

1697

[fol. 3088] A. Yes, sir, it was.

Q. Well, if you were revising it, how would you treat that; as——

A. It is my understanding that they allowed one-half.

Q. Do you think that in every other allowance and adjustment you followed the principles adopted by the majority of the West Virginia Commission?

A. Well, as far as I know yes.

Q. In that sense, if I understand you, your exhibit is a mere compilation?

A. That is true.

Q. In other words, your judgments and your decisions and your view of principles did not enter into that compilation?

A. With the exception of that the figures were taken from the books, and, of course, as such, are correct; otherwise the answer is true.

Q. You mean in the 1929 and 1930 additions?

A. Yes, sir.

Q. Well, I am forgetting that and dealing with it up to—including 1928.

A. I accepted the Commission's figures.

Q. That is what I am getting at; an auditor's or an accountant's compilation of what the Commission did?

A. Yes, sir.

Q. And the principles applied?

A. Sure.

Q. Then you simply added the book values for 1929 and 1930?

A. That is right.

Q. And when you speak of book values you mean amounts actually expended?

A. Surely.

Chairman Geiger: Do I understand you to say that for 1698

[fol. 3089] your estimate of the value of the property covered by the investigation in West Virginia you accepted that as a correct determination of the value of the property and operating expenses of that company in West Virginia?

The Witness: Certainly not; my intention was to say——

Chairman Geiger: You have taken your figures, as I understand, from the West Virginia Commission's reports and made compilation of them?

The Witness: I accepted them for the purpose of this exhibit.

Chairman Geiger: But you do not accept that as being correct?

The Witness: Well, I would not say they were wrong either; it is not for me to say.

Chairman Geiger: Well, do they find a value of the property in West Virginia?

The Witness: Yes, sir, they do.

Chairman Geiger: Well, you are not telling us now whether you do or do not accept the conclusions of the West Virginia Commission as the proper conclusion as to the value of that property?

The Witness: No, I would not be capable of making that decision.

1698

[fol. 3090] By Mr. Butler:

Q. Do you have a larger map than this No. 83—one on a larger scale? I cannot even read the designations of the pipe lines?

(No reply.)

Mr. Turner: If you will promise to give me mine back I will let you have the only one I have. It is the only one I have now.

1699

[fol. 3091] The Witness: That is a photostatic copy of this one; they are both exactly the same except this is larger, Mr. Butler.

By Mr. Butler:

Q. Mr. Hightower, you furnished us a map marked Company's Exhibit No. 83, and that is on such a small scale that I personally confess my inability to use it. Mr. Turner has handed me temporarily a larger map, from which no doubt this little map was photostated, and that seems much more easily followed. Will you not give us also a comparable number of this larger size; let that be marked 83-A?

A. I could get that, yes.

Q. You have another one there and after you get through you can leave that with us?

A. I think so, yes, sir.

Q. Mr. Turner made me promise to return this to him. Does this Map 83 show all of the transmission lines of The United Fuel Gas Company?

A. I have not studied that map at all, Mr. Butler; I simply got a copy of the map from our engineering department and transmitted it over here to you, but I am satisfied that it does include all that, but I certainly would not want to swear to it.

Q. Well, I hardly know where we are then; there is no use to ask you about it, though, because frankly you——

A. That is the fact; the engineering department handed it to me and every map I have gotten from them so far has been complete and correct.

Mr. Turner: I think you may accept that it does include everything.

Mr. Butler: Well, but I wanted to ask about it; there are so many things; you will give us, no doubt, some one who 1700
[fol. 3092] can tell us clearly about it. Haven't you a Mr. Phillips down there?

Mr. Turner: We have a Mr. Phillips here awaiting cross-examination.

Mr. Butler: But I say, haven't you one down there?

Mr. Turner: I don't know; I have nothing to do with them and I never was down there.

By Mr. Butler:

Q. In your Exhibit, Company's Exhibit No. 84, there is the title "Deliveries to The Ohio Fuel Gas Company at Kenova, West Virginia, of gas almost exclusively produced in Kentucky during the year 1930"?

A. Yes, sir.

Q. I want that for 1929; we cannot allocate it otherwise; and that will hold for your Exhibit 85. What do you mean by "Almost exclusively produced?" Is the amount going through there out of West Virginia so inconsiderable that it might be ignored?

A. Practically, yes, that is right.

Q. In other words, when we consider all that as coming from Kentucky we do no violence to real facts?

A. That is right.

Q. One question more about these maps before I leave the. Do you know whether these maps show also all of the Warfield Company's property?

A. They do—or it does, rather.

Q. Well, I thought the Warfield had some considerable distribution over in Kentucky?

A. It is on that map, Ashland, Catlettsburg and along there, Mr. Butler.

Mr. Turner: You see in Ashland, Mr. Butler, they have the wells right in the city.

Q. Your United and Warfield do not carry gas to Cin- 1701
[fol. 3093] cinnati or Lexington or Louisville?

A. No, sir, they do not.

Q. They sell to companies that carry it there?

A. Yes, sir.

Q. Are those companies in the Columbia System?

A. They are—you did not mention Louisville, did you?

Q. Yes.

A. Well, I beg your pardon; it does not include the Louisville Company.

Q. But do you sell gas to the Louisville Company?

A. Yes, sir.

Q. At what point?

A. Inez, in Martin County, Kentucky.

Q. Do you sell it to the Central Kentucky Natural Gas Company?

A. Yes, sir.

Q. And that is not connected with the Columbia System?

A. No—that is connected with the Columbia System.

Q. Where does it carry that gas?

A. The same place, Inez, Kentucky.

Q. Well, to what places?

A. Do you mean The Central Kentucky Natural Gas Company?

Q. Yes.

A. They serve Lexington, Winchester, Mount Sterling, Georgetown and Cynthiana, and sell to the company that furnishes Frankfort, Kentucky.

Q. Well, what companies there in—to what companies there in Kentucky do you sell that are not subsidiaries of the Columbia System?

A. The Louisville Gas & Electric Company is one.

Q. And where does that start?

A. At Inez, Kentucky.

Q. That is a Kentucky pipe line company?

A. It may be; I am not familiar with that.

1702

[fol. 3094] Q. All right, we will let some one else tell; it is quite unfair to ask you about that. In your compilation, Exhibit No. 80, isn't it—Company's Exhibit No. 80—and in referring to what the West Virginia Commission did, did you find that the West Virginia Commission found the value of all of the property of the United wherever located?

A. I think so yes, sir.

Q. Well, you make up your allocation; I am trying to find out how you proceeded?

A. Well, from memory, it included all of it.

Q. In glancing over the briefs I see some mention of property in West Virginia, Kentucky and Ohio; what property in Ohio does the United own?

A. The United Fuel Gas Company serves Ironton, Ohio, and suburbs there.

Q. Any other place?

A. Yes, there is a few small towns across from Huntington.

Q. Can you give me the names of them?

A. Bradrick, Chesapeake—just little villages.

Q. Any other places you now think of?

A. I think that is all; that is all the main ones at least.

Q. What was the value of the property in Ohio?

A. I do not know.

Q. Can't you refer to it; can't you tell me?

A. I do not believe that was in the exhibit; I do not believe the West Virginia Commission mentioned specifically the Ohio property; I am assuming that they included it in the total.

Q. *Ell*, what part of the total was Kentucky property?

A. They did not segregate Kentucky either; they valued it as a whole.

1704

[fol. 3095] Q. Referring to your balance sheet of 1929, Company Exhibit No. 81, under "Fixed Capital," you have plant property and equipment 93 million dollars plus; what part of that is leases?

A. Roughly about 38 million dollars.

Q. What do you mean by "Discovery Appreciation (contra)"?

A. In some of the earlier years of the Federal Income Tax Law they allowed what is known as discovery depletion or discovery appreciation; at that time we thought it was necessary to place that figure on the books and you will notice that after the words "Discovery Appreciation" you see the word "Contra."

Q. Yes, sir.

A. On the liability side is the same amount entitled "Undepleted discovery appreciation;" we depleted that figure for a few years and then they changed the law and we just

1705

[fol. 3096] left it on the books. It has no effect; it is on both the asset and the liability side and has never been written off.

Q. Do you carry your leases under four subheads, No. 1, No. 2, No. 3 and No. 4?

A. No, sir, we do not, but we can always get the information—oh, you mean, 1, 2, 3 and 4, as in the West Virginia case?

Q. Well, I mean—I am having in mind how they were carried here by the Logan?

A. Oh, no, we have no such classifications on our books at all.

Q. Well, in the West Virginia case were there Numbers 1, 2, 3 and 4?

A. Yes, sir.

Q. Did those correspond to the Logan?

A. I do not know.

Q. So you do not carry any classifications?

A. Yes, sir, we carry the classification in accordance with the West Virginia Classification of Accounts.

Q. Well, on your books, how many different classifications?

A. I could not answer. By way of illustration, we have leaseholds, gas rights, and then we have leaseholds, gas rights in which some other companies own the oil rights, and we just segregate that for our own purposes; how many divisions I could not answer offhand.

Q. Well, do you carry on your books divisions showing the acreage you are working and the acreage you are not working?

A. Yes, sir.

Q. Well, that is at least two divisions?

A. Yes; operative and non-operative we call those two divisions.

Q. Then you have a third division where you own the

1706

[fol. 3097] gas and the other company owns the oil?

A. Yes, sir; that is within the two divisions mentioned; a sbdivision of the two mentioned.

1707

[fol. 3098] Q. Mr. Hightower, your Company's Exhibit No. 83 shows that in the vicinity of Huntington, across in

Ohio, your company serves four towns, Proctor[illegible] rick, Corryville and Chesapeake, is that correct?

A. That is correct, yes, sir.

Q. Are those ordinance towns or how are the [illegible]

A. My understanding is they are fixed the [illegible] towns in Ohio. We have been serving them [illegible] many years and I do not recall just how they [illegible] the beginning.

Q. Well——

A. We have served them for about 15 [illegible] more.

Q. I know, but my question goes as to how [illegible] fixed; you do not happen to know?

A. No, I do not.

Q. Then near Ashland your company crosses [illegible] and furnished Coakgrove?

A. Yes, sir.

Q. And then you come on down the river [illegible]

[fol. 3099] Ironton and Hanging Rock; is Ironton [illegible] dinance town, do you know?

Commissioner Bricker: There is some litigation [illegible] now in regard to that that Judge Ritz has before [illegible] mission; he is trying to negotiate with the [illegible] there and at New Boston, and he can give you the [illegible] on that; I was looking up the cases just the [illegible] New Boston is on up above Portsmouth aways.

By Mr. Butler:

Q. Well, it appears that you verified the [illegible] of The United Fuel Gas Company filed with [illegible] Utilities Commission of Ohio for the year ending December 31st, 1929?

A. Yes, sir.

Q. And I assume that on the eighth page you [illegible] all of the cities or towns you furnish, Ironton, Coakgrove, Wheelersburg, New Boston, Egbert, Proctorville, Hanging Rock, Corryville, Chesapeake, and then rural districts?

A. That is true, yes.

Q. Those are all the towns in Ohio that you [illegible]

A. Yes, sir.

Commissioner Bricker: Do you know what the rates are in those towns?

The Witness: I think we are getting 40 cents at Ironton; I am not positive about the small towns across from Huntington.

Q. Where do you deliver your gas that is used for Portsmouth, is that The Portsmouth Gas Company?

A. Yes, sir.

Q. Where do you deliver your gas to The Portsmouth Gas Company?

A. At the city gates of Portsmouth.

Q. Your pipe line crosses the river, runs over to a point 1709 [fol. 2190] between New Boston and Portsmouth and then down to Portsmouth, doesn't it?

A. No, sir, the pipe line that delivers to Portsmouth crosses the river right at Portsmouth—I think, if you will look at the map again, Mr. Butler.

Q. Well, I am looking at it; that is the point exactly; the trouble is that little map, you can not see that; you will ruin your eyes.

A. Thanks for your consideration.

Q. Then, as I understand, Portsmouth and New Boston touch each other?

A. That is my understanding, practically.

Q. And your pipe line runs across the river and goes over to the line then that goes north and south, one part goes up to New Boston and one to Portsmouth?

A. It could under emergency, but that is not the rule; the rule is that for Coalgrove the crossing is at Coalgrove and then goes on down the river and furnishes Ironton and Hanging Rock, on down to Wheelersburg and New Boston.

Q. And Portsmouth?

A. It can, but it is only an emergency measure that it ever does.

Q. But what about the one that goes across directly?

A. We are talking about this line over here now.

Q. Well, you were, but I was talking about——

A. Well, I always said one went to Portsmouth, Mr. Butler.

Q. Where is the meter that measures the gas that you sell for use in Portsmouth?

A. At the city gates of Portsmouth.

Q. How far from the river?

A. Oh, I don't know.

Q. Well, then you don't know about it?

A. No; if you want to know about the inch and the yard and the mile, no, I do not know.

1710

[fol. 3101] Chairman Geiger: Well, is it on the Ohio side of the river?

The Witness: Yes, sir.

Mr. Turner: You understand that the Ohio side of the river is still West Virginia.

Chairman Geiger: Well, the question is what the high or low water mark is.

Mr. Turner: Low water mark is West Virginia.

Chairman Geiger: Well, do you deliver the gas to the Ohio Company in West Virginia or in Ohio, at the meter?

The Witness: The meter—it is mensured in Ohio.

Commissioner Bricker: You furnish direct to New Boston though, don't you?

The Witness: Oh, no—oh, New Boston—yes, sir, that is right.

By Mr. Butler:

Q. You furnish—direct—did furnish directly in 1929 to 6,809 customers in Ohio?

A. That is approximately right, yes, sir.

Q. And do you remember how many customers Portsmouth had, or how much gas you furnished there?

A. No, not from memory; I never did know the customers.

Q. On page 6 I find this: "Sales to Portsmouth Gas Company for the 1929 year amounted to 1,189,432 M. C. F., for which we received $463,878.48"; I assume that is correct?

A. I do too, Mr. Butler.

Q. In other words, on page 48 of this report it seems that your total distribution in Ohio was 2,541,905 M. cubic feet?

Mr. Turner: Objection—just a minute now.

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[fol. 3102] Commissioner Bricker: What is the basis of the objection?

Mr. Turner: The witness has plainly said that they did not distribute at Portsmouth; now Mr. Butler is hooking Portsmouth up; distribution he is asking about.

Mr. Butler: Mr. Turner, if I may explain, I was reading from page 48 of this report which they filed; it is the uniform report; No. 6 on that page, "Number cubic feet of gas distributed during the year in Ohio", and then they give details, "Total cubic fee distributed".

Mr. Turner: We have another case—you are using the word "Distributed".

Commissioner Bricker: That is the amount of gas sold direct by the United Fuel to consumers, isn't it?

Mr. Turner: If that is what he is getting at I have no objection. I thought he was including Portsmouth.

Mr. Butler: And here again—

Mr. Turner: Well, if it does not include Portsmouth I have no objection.

Mr. Butler: Well, it does include Portsmouth.

Mr. Turner: Well, that is it; I object to the use of the word "distribute".

Chairman Geiger: Can't we get it by asking a question or two of him; do you distribute gas in Portsmouth, Ohio?

The Witness: No, sir.

Chairman Geiger: To whom do you sell it; who does distribute it?

The Witness: The Portsmouth Gas Company.

Chairman Geiger: And where do you see it?

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[Tr. 3103] The Witness: At the State Line.

Chairman Geiger: The city gates?

The Witness: It is measured at the city gate but it is sold at the State Line.

Chairman Geiger: Which side of the State line; right smack on the center of the State line?

A. That is as we construe it, yes, sir.

By Mr. Butler:

Q. Here, No. 8 on this page 48—

A. But, Mr. Butler, of course those figures were made up over a year ago and I hope you do not expect me to recall all that is in that statement. I have handled millions of

figures since that time and I would really have to either just acquiesce in the figures you are reading or I would have to study that report again to familiarize myself with it.

Q. Do you want to look at it?

A. I do not believe it would help me a bit unless I checked it with the books.

Q. Well, you swore to it.

A. Well, I might swear at it now, but nevertheless I am satisfied it is true, yes.

Q. Well, if you are satisfied it is true, that is the point——

A. But if you ask me what those figures mean I will have to go back and refresh my memory as to the meaning of those figures. If you include some figures and you said it was distributed—if I misused the word "distributed", I would like to correct myself; I do not know whether I did or not.

Q. "8; number cubic feet gas brought into Ohio"; then written in ink, "2,541,905 M. cubic feet"; you have no reason for believing that that is not true, do you?

A. Well, certainly that gas came to Ohio; no question about that; the question is how you interpret whether we

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[fol. 3104] delivered it there or whether they distributed it and all that; that is another matter.

Chairman Geiger: Would you be willing to answer his question as briefly as you can and let us determine where it is; just answer the question the gentleman propounds and let us get along with this case.

The Witness: Judge Geiger, I am certainly trying to do it but I do not want Mr. Butler to get me to say something I did not mean.

Chairman Geiger: Well, you have a right to protect yourself.

The Witness: I am certainly trying to do that.

Mr. Turner: The trouble came from counsel; I objected to the question, is the reason we had this stop.

Chairman Geiger: What is the question?

Mr. Turner: Well, it was some time ago and we passed on from that. The witness is not subject to criticism; I am subject to criticism, if there be ground for criticism.

Chairman Geiger: If I may make one remark—I know I am given to it a good deal; let us see if we can not get this moving a little faster; be regular in your objections, the same as in a lawsuit.

Mr. Turner: Amen.

Chairman Geiger: I don't know whether we can do it or not but let us endeavor to do it.

By Mr. Butler:

Q. Now No. 9 on that page 48, "Number cubic feet gas sold outside of Ohio"; then written in ink, "see work sheets"; then after that "50,171,439 thousand cubic feet".

A. Well, I will accept your reading of the report and I

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[fol. 3105] will say it is right, Mr. Butler.

Q. Well, now, look at that page; you tell the Commission whether you did not intend by your answers in 8 and 9 to divide the total amount of your gas into gas that your company brought into Ohio and disposed of in Ohio and gas that it disposed of other than in Ohio?

A. We assumed that it was the desire of this Commission that the Portsmouth Gas Company deliveries be included in that figure, and so we included it.

Q. Do you know how long you have been filing these reports in Ohio?

A. Ever since I can remember; since I have been with the company.

Q. Well, you do not quite literally mean that?

A. No, but it has been almost since I reached the higher position with the company.

Q. Now, on pages 10 and 11 of that annual report there is a general balance sheet; page 10, "Asset Accounts"; page 11, "Liability Accounts"; do those asset accounts and those liability accounts include the Warfield?

A. They do not.

Q. It is only in these rate cases down there where you have combined them?

A. That is right.

Q. Is your Warfield business all in the State of Kentucky?

A. It is.

Q. Do you make a report to the State of Kentucky?

A. We do.

Q. I would like to see——

Mr. Turner: Don't look this way; I am not going to get it for you; Kentucky is just as close to you as it is to me.

Mr. Butler: I thought I would have to make a deposit

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[fol. 3106] before I made this request.

Mr. Turner: You will have to.

By Mr. Butler:

Q. I should like to have a copy of your 1929 report of the Warfield, in the State of Kentucky, and then we can put the two together.

Chairman Geiger: You speak of that—"your report of the Warfield"; whose report do you mean?

Mr. Butler: Well, it would be the Warfield reports; this gentleman is not connected with the Warfield, is he?

The Witness: Oh, yes.

By Mr. Butler:

Q. The company owns the stock; how are you connected with the Warfield?

A. I have the same capacity with the Warfield as I have with The United Fuel Gas Company.

Q. The United makes a report to Kentucky also?

A. No, sir.

Q. The United has no property in Kentucky?

A. No, sir.

Chairman Geiger: Do you mean for us to understand that as between the United and the Warfield, the West Virginia Kentucky line divides the property of each?

The Witness: Yes, sir.

Chairman Geiger: So that the one does not go into the other State?

The Witness: That is right.

By Mr. Butler:

Q. The United has no property in Kentucky and the Warfield has no property in West Virginia?

A. That is right.

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[fol. 3107] Chairman Geiger: Do you join them or divide them at the State Line irrespective that it might cut the supply pipe or gas well or gas property by the State Line?

The Witness: Yes, sir.

Mr. Turner: You will remember in that Federal case, the Warfield was shown in that case to be an instrumentality of the United, and the facts in that case show that it was cut off for the purpose of serving Kentucky. As I got the facts from that case, the United formerly served all of Kentucky, and then instead of continuing to do that, they made a subsidiary company, which is a producing and transmitting and a probably distributing company; as I am not sure as to the latter—as to the distribution.

By Mr. Buffer:

Q. Mr. Hightower, some of the gas that the Ohio Fuel Gas Company gets from West Virginia and Kentucky crosses the river there at Kenova, does it not?

A. Yes, sir.

Q. Well, now, The Ohio Fuel Gas Company makes its contracts with the United?

A. That is right.

Q. Not with the Warfield?

A. Not with the Warfield; with the United Fuel Gas Company.

Q. But there is a big Kentucky field there which is Warfield gas?

A. Yes, sir.

Q. Well, how does that gas get out of the Warfield into the United and then from the United over to the Ohio Fuel Gas; what sort of bookkeeping do you have for that?

A. The United Fuel buys that gas and for the purpose of all these exhibits we have eliminated the inter-company expenditures and inter company purchases and sales and made it as one company and that is true of the West Vir-

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[fol. 3108] ginia rate case as well; they were the ones who compelled us in this instance to handle it in that manner.

Q. Well, it started away back in the Federal case and the Commission cases that preceded the Federal case, didn't it?

A. I think in the cases preceding the Federal case it was all one company; it was not separated until 1922, and then

the Kentucky property was segregated and turned over to the Warfield Natural Gas Company.

Q. Well, in your inter-company bookkeeping how do you—what prices do you carry this gas from the Warfield to the United?

A. 12 cents per thousand.

Q. And Hale in Martin County is about the center of that field, that is, the Kentucky field, the Warfield field?

A. No, the Warfield field is—has a larger production down around the Prestonburg field by far than the Martin County field.

Q. Well, what I should have said, Hale was the center of one of the fields and Beaver Creek is substantially the center of the other field; the northern field being called the Triple State field, and the southern field the Prestonburg field?

A. That is true, yes, sir.

Chairman Geiger: May I ask a question there?

Mr. Turner: There is another field that you have not mentioned; Mr. Butler has not developed another field; I don't know whether he wanted to get that or not.

Chairman Geiger: I wanted, before we pass from that particular thing to which you have testified—as I understand, you testified that the Warfield sells its gas or trans-

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[fol. 3109] ports its gas from its Kentucky field into the pipes of the United of West Virginia, is that correct?

The Witness: It goes both ways, Judge; the United Fuel delivers gas to the pipe lines of the Warfield and the Warfield delivers gas to the pipe lines of the United.

Chairman Geiger: But do they have an inter-commerce between each of these two companies, one being the West Virginia Company and the other being the Kentucky Company?

The Witness: Yes, sir; as a matter of fact——

Chairman Geiger: Well, that is all I wanted to know at present; now you have established, I believe, a price of 12 cents that each company charges the other, is that correct?

The Witness: 12 cents.

Chairman Geiger: Well, the Warfield charges the United 12 cents and the United charges the Warfield 12 cents; is that correct?

The Witness: No; I will have to correct that. The way we are handling it now—that was the early days—the way we are handling it now is that we exchange all the gas between the two companies; the Warfield for certain periods has enough gas of its own to supply its customers, at other periods it does not, and where it does not we charge them 30 cents for their gas.

Chairman Geiger: Oh.

The Witness: Because it is a peak load proposition.

Chairman Geiger: Well, when did you last transfer the ownership of the gas from one company to the other at a price of 12 cents?

The Witness: I was going to add, where the Warfield

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[fol. 3110] sells it in the field to the United Fuel, we take it at 12 cents, but as far as all the records in this case are concerned, all that is eliminated both ways.

Chairman Geiger: Well, we do not care anything about that.

Mr. Turner: Well, I think you should.

Chairman Geiger: Well, wait until it is developed; the Warfield pays the United 30 cents, is that right?

The Witness: That is correct.

Chairman Geiger: And the United pays the Warfield 12 cents?

The Witness: Yes, sir, for the reason stated—one is a peak load proposition, and—

Chairman Geiger: Well, that is all right.

Mr. Turner: Oh, well—

Chairman Geiger: But due to the fact that that which the Warfield buys is a peak load proposition the United charges the Warfield 30 cents?

The Witness: Yes, sir.

Chairman Geiger: How about the peak load flowing the other way, from the Warfield to the United; it does not flow that way so as to make it a peak load?

The Witness: The other is excess gas on the part of the Warfield.

Chairman Geiger: I beg your pardon?

The Witness: The other is excess gas of the Warfield; they use all their own for their own purpose first and the balance is transferred to the United.

Chairman Geiger: At 12 cents?

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[fol. 3111] The Witness: Yes, sir.

Chairman Geiger: That is, they have an excess of gas—the Warfield?

The Witness: Yes, sir.

Chairman Geiger: But the United has not an excess of gas and when the Warfield makes the demand upon it it sells gas to the Warfield and then the Warfield pays 30 cents, is that correct?

The Witness: The peak load proposition there refers to the Warfield.

Chairman Geiger: I understand that.

The Witness: I assume that at the time that the Warfield needs its gas the United really needs it at the same time; of course, that is a matter of operation, and I could not absolutely say.

Chairman Geiger: But there is a difference of 18 cents between gas that is furnished as a peak load gas and gas that is furnished not as a peak load?

Mr. Turner: As excess gas, he stated Your Honor; one is excess gas and the other is peak load gas.

Chairman Geiger: Well, that makes the difference of 18 cents?

The Witness: Yes, sir.

Chairman Geiger: Well, now, is that worked out by any mathematics or is it just an agreed difference between the two companies?

The Witness: Well, that figure is not decided by the treasury department; it is decided by the management.

Chairman Geiger: But it is not decided on the excess

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[fol. 3112] cost of peak load gas over the other gas?

The Witness: I think it is decided by the value of the gas in the field that we buy from other people; we buy our gas around 12 cents.

Chairman Geiger: I was going to ask about that; you buy from independent companies around 12 cents, is that correct?

The Witness: That is correct.

Chairman Geiger: Well, the last sheet that you have exhibited here, No. 87, indicates that The United Fuel Gas Company has purchased gas during the year 1930 from independent producers and also from the affiliated company, The

Huntington Development & Gas Company; that is correct, is it?

The Witness: Yes, sir.

Chairman Geiger: Now do you handle any other gas than from these two sources; do you handle your own developed gas in addition?

The Witness: Oh, yes, sir, sure.

Chairman Geiger: But of these two sources, the independent producer and the affiliated company, The Huntington Development & Gas Company; you get about 98 percent, of that total amount from these two sources, from the independent producer—a little over 98 percent?

The Witness: Yes, sir.

Chairman Geiger: And a little under two percent from The Huntington Company?

The Witness: Yes, sir.

Chairman Geiger: And you pay the independent producer 12.82 cents per thousand cubic feet, is that right?

The Witness: That is correct.

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[fol. 3113] Chairman Geiger: And you pay your own affiliated company 12 cents a thousand cubic feet; that is right, is it?

The Witness: Yes, but for the year 1930, I believe was the first year that our gas purchased from independent producers went over 12 cents; that shows the trend of prices; that may range and does range from five cents a thousand to 14 or 12 cents a thousand.

Chairman Geiger: Well, as I understand this figure you have reported here, 12.82 cents, is the average rate for all of that 14,622,042 M. cubic feet of gas?

The Witness: For the year 1930, yes, sir.

Chairman Geiger: Well, now, is that figure arrived at by actual market conditions there between buyers and sellers so that you could say that that was the fair price of the gas at that point?

The Witness: Those prices are arrived at by contract in every case.

Chairman Geiger: I know, sure; they are contracts between independent producers and your company?

The Witness: Yes, sir, that is right.

Chairman Geiger: With no inter-relation, one to the other?

The Witness: No inter-relation.

Chairman Geiger: Well, at what point in the line are these prices fixed; at the mouth of the pipe line or where?

The Witness: Different places; usually at the well.

Chairman Geiger: Well, that is what makes

[fol. 3114] tion in the price from five cents on the distance from your pipe line?

The Witness: Oh, no; what makes that variation fact that in the earlier years, 15—18 years ago prices prevailed; we are not buying or contracting for gas at the present time at five cents.

Chairman Geiger: I see. Could you tell me that this is the average rate, 12.82 cents; could you the high and low points that go to make up that rate for the year 1930?

The Witness: Not from memory.

Chairman Geiger: Well, whatever difference there tween the high and the low point which averages 12.82 would be due to the proximity of the transmission or if not to that, to what other causes?

The Witness: To the period in which the contracts made, I would say entirely.

Chairman Geiger: All right. Now, as long as we are this, Mr. Butler, would you permit me just a few questions and then I will quit?

Mr. Butler: Sure.

Chairman Geiger: Looking at your Exhibit No. 5, it would appear that certain deliveries were made to the Ohio Fuel Gas Company at Kenova, West Virginia, which was almost exclusively produced in Kentucky during the year 1930; do you mean produced in Kentucky by your production company or produced by drilling and purchasing?

The Witness: Produced and purchased, both intermingled together in the lines and you cannot tell

[fol. 3115] which is which.

Chairman Geiger: Sure. I understand that Kenova with reference to the Ohio River?

The Witness: Right on the Ohio River.

Chairman Geiger: Now, you deliver that to the Ohio Company at an average of 26.6 cents per thousand cubic feet, is that right?

The Witness: I think the contract reads 26½ cents at the point.

Chairman Geiger: Very well——

Mr. Turner: The reason for that—do you want that? I do not know whether he knows that makes that six; I can tell you what makes it if you want to know.

Chairman Geiger: Well, we just figured it from the amount you have here.

Mr. Turner: Well, that is easily explained, because it also takes in the gas that goes around through the Connecting Line on which there is an additional price due to the carrying charge; you remember the 35 cent gas; that all averaged together makes a little over 26½ cents and the gas that comes directly averages 26½ cents.

Chairman Geiger: Have you gas people worked out what is a fair rate for transporting gas through a pipe with the necessary compressors and convertors, etc.; that is, what would be a fair rate for one company who owns the pipe line to charge another company which owns the gas for the service of transporting the gas which you sell?

The Witness: That would not be a matter for an account to answer.

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Chairman Geiger: Well, do you know whether or not——

The Witness: I have never figured it out myself.

Chairman Geiger: I see you have.

The Witness: That is for an outside company.

Chairman Geiger: I see you have a sheet here, your Exhibit 8, "Gas transported for The Pittsburgh & West Virginia Gas Company during the year 1930", at the rate of 7.5 cents per thousand cubic feet; is that the rate for transporting the gas?

The Witness: That is in lieu of a transportation charge, but was not actually transported.

Mr. Turner: Your Honor has probably forgotten the evidence on that and we can straighten you out on that.

Chairman Geiger: I just have one or two more, Mr. Turner——

Mr. Turner: I thought you remembered the evidence.

Chairman Geiger: Is that 7.3 cents arrived at by actual estimate of the actual cost or is it simply a contract figure?

The Witness: It is a contract figure.

Chairman Geiger: Well, now, for that 7.3 cents per thousandcubic feet, how far do you transport that gas?

The Witness: As I said before, the gas is not transported in the sense of charging that 7.3 cents for transporting; we deliver a certain amount of gas to The Pittsburgh & West Virginia Gas Company at Cedarville and they deliver to us a like amount of gas at Maytown, Kentucky.

Chairman Geiger: Well, you exchange gas?

The Witness: Yes, sir, that is right.

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[fol. 3117] Chairman Geiger: And what do you charge the 7.3 cents per thousand cubic feet for?

The Witness: Well, they get a greater advantage and they pay for it.

Mr. Turner: It is a differential.

The Witness: They need the gas worse at Cedarville than we need it at Maytown.

Chairman Geiger: Well, I am trying to get at what it is based on, is it just based on the fact that you can charge it or based on services rendered?

The Witness: It is in accordance with the contract.

Chairman Geiger: Well, all right, that is all.

Mr. Turner: Your Honor understands there is no pipe line at all there; do you understand that? That was in the evidence here before; there is no pipe line; this is no transportation at all; this is in lieu of transportation; it is just the difference in price that they charge for this gas there.

Chairman Geiger: Well, why do they charge a difference in price; because of the relative position of the two companies?

Mr. Turner: Why, certainly, because they can and because somebody wants it and because it is cheaper for these people to pay this figure than to build the pipe line; that is the reason; it is cheaper for these people to pay the United this differential than to build a pipe line from their own fields up to Maytown. Maytown is where you give them their gas.

The Witness: Cedarville.

1727

[fol. 3118] Mr. Turner: That is right.

Chairman Geiger: Well, there is where I was trying to grasp something; you do charge them this differential?

Mr. Turner: Yes.

Chairman Geiger: Well, what is it based on?

Mr. Turner: It is based on——

Chairman Geiger: That distance?

Mr. Turner: No; it is based on the opportunities of business, I would say.

Chairman Geiger: It has nothing to do with property used and useful in producing any income?

Mr. Turner: Why, no.

Chairman Geiger: Because it does not exist?

Mr. Turner: It does not exist except as a credit and it is deducted as a profit to the company; deducted from their expenses—taken off; this service don't cost us by this much money which we deduct because somebody else pays us for the advantage we have for delivering that gas at Cedarville.

Chairman Geiger: Is it deducted from the rate?

Mr. Turner: It is deducted from the rate figures here that we have submitted.

Chairman Geiger: All right. Pardon me for interrupting you, Mr. Butler.

Mr. Butler: Oh, that is all right, Your Honor.

Mr. Turner: No, down here at Beaver Creek is where the Pittsburgh Company has some gas; up here at Cedarville is where they want the gas. Now instead of building a line from Beaver Creek to Cedarville they trade gas, and on the swap they pay something to us. We have taken

1728

[fol. 3119] the boot off as a revenue—deducted it from the expenses; there is no pipe line.

Chairman Geiger: That is they assume that the gas at this point nearer Pittsburgh is worth 7.3 cents more by reason of its being here than it would be down here?

Mr. Turner: Yes, and it is cheaper for them to do it than to build a pipe line.

Mr. Huffman: What is the distance there, Mr. Turner?

Mr. Turner: Why, I would have to guess, there don't seem to be any scale; I don't know—130 or 140 miles.

Chairman Geiger: Has it any relation to the distance from the place you produce your gas to Kenova, West Virginia; is it a further or a less distance or what?

Mr. Turner: You can look at the map and see, Your Honor. I don't think that—you see there is some gas right here.

Chairman Geiger: Here is Kenova; it is about half the distance it is from the point in Beaver Creek—that it would be from Beaver Creek to Kenova.

Commissioner Bricker: About twice the distance.

Chairman Geiger: The other place is twice the distance—all right.

By Mr. Butler:

Q. Am I correct in assuming that in order to carry out that arrangement or contract with The Pittsburgh and West Virginia Gas Company whereby gas was delivered to it over at Cedarville the United found it necessary to put in a new or additional pipe or transmission line?

A. That is a management question; I don't know how they figured it; of course, we had lots of gas down there, I know that; I am sure a line would have been put in any

1729

[fol. 3120] how; it would have been necessary to put it in any how.

Q. Of course, I have nobody to ask except you.

A. Well, it looks so reasonable to me; I am answering from a reasonable viewpoint.

Q. Well, you don't know whether, or order to bring that about, it was necessary to make additional investment in transmission line?

A. Oh, no, that is entirely a management question.

Q. Well, there was a written contract about that, wasn't there?

A. About the exchange of gas, yes, sir, there was.

Q. I guess Mr. Wallace would let you give us a copy of that, wouldn't he?

A. I could ask him.

Q. By the way, he did not place any further limitations—he did not forbid you coming back to testify?

A. Apparently not.

Q. He did not object to it?

A. No.

Q. As far as you know, you came back with his approval?

A. Surely I came back with his approval.

Q. And this place where the United received the gas of The Pittsburgh & West Virginia Gas Company is away down in the Prestonburg field?

A. Yes, sir.

Q. Near Beaver Creek?

A. Well, it is very close to Beaver Creek, yes, sir.

Q. Don't you think that you and I got into some geographical difficulties awhile ago; I understood you to say that it was the Warfield only on the Kentucky side, in Kentucky; and the United only over in West Virginia?

A. Yes, sir, I said that.

17:30

[fol. 3121] Q. Well, that is not correct, is it?

A. Surely it is correct.

Q. Well, is this contract for this gas down in the Prestonburg field about which you have been speaking with the United or with the Warfield?

A. The contract is with The United Fuel Gas Company; however, that gas passes through a part of the Warfield line in Kentucky and we pay the Warfield Natural Gas Company for that transportation, and that is true of every other part of Kentucky; whenever The United Fuel Gas Company's gas passed through the lines of The Warfield Natural Gas Company, The United Fuel Gas Company pays them for the use of that line.

Chairman Geiger: Well, do you know what rate they pay them per thousand cubic feet?

The Witness: Well, different amounts at different places, and it was practically all one company and we figured it did not make much difference what the rate was so that it was something to compensate them for their investment.

Chairman Geiger: Except that it would be added to the price of gas which somebody way off in some distant State may pay?

The Witness: Oh, no, not as far as the United Fuel and Warfield consolidated together is concerned, it is not true. That is some more of the figures that are eliminated when the two companies are placed—when the two companies' figures are placed together.

By Mr. Butler:

Q. Isn't that charge for transportation based upon some experience of your company?

A. I could get the details on which we based that trans-

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[fol. 3122] portation; there was two or three factors that I recall taken into consideration.

Q. What factors?

A. The distance traveled, the size of the line, etc., was taken into consideration.

Q. And you are unable at this time to give us the formula whereby those are worked out?

A. Oh, yes, from memory; that was worked out a few years ago.

Q. Well, now, on this map 83, there is a pipe line running from the Prestonburg field up to Kenova and the Ohio River; what part of that belongs to the Warfield and what part to the United?

A. The part that is in West Virginia belongs to the United Fuel Gas Company, and that portion which is in Kentucky belongs to The Warfield Natural Gas Company.

Q. In your United Fuel Gas Company annual report for the year ending December 31st, 1929, filed with The Public Service Commission of the State of West Virginia, on page 27, under "Gas purchased from utilities", you give "Warfield Natural Gas Company, Charleston-Dunbar Natural Gas Company, Huntington Development & Gas Company", each of them 12 cents; that is correct?

A. That is correct.

Q. Well, now, does that list there all the gas that the United purchased from the Warfield?

A. That is all they purchased, yes, sir.

Q. Is the Charleston-Dunbar Natural Gas Company an affiliated company?

A. It was then; it is a part of the United Fuel Gas Company now; it was consolidated January 1st, 1930.

Q. Is the Huntington Development & Gas Company an affiliated company?

A. Yes, sir. I show that as an affiliated company on No. 87—86 or 87.

1732

[fol. 3123] Mr. Turner: 87.

The Witness: 87.

By Mr. Butler:

Q. Well, that is for 1930, your No. 87?

A. They were affiliated in 1929 also.

Q. Now you have a list attached to page 27 of that report of which I am speaking that sets out the individual independent producers from which you purchase gas, so that will give me there what I want. I see there was one large purchaser here, West Virginia Gas Corporation, is that one we have been talking about—that exchange of gas?

A. No, the exchanged gas was with The Pittsburgh & West Virginia Gas Company.

Q. Who is the West Virginia Gas Corporation?

A. I do not know.

Q. Is it an affiliated company?

A. No, sir.

Q. Where is its field located, do you know?

A. No, I do not. I would assume from the name that it is in West Virginia.

Q. In that year from these independent producers, from your summary, it seems you purchased 13,773,737 M. cubic feet at an average of 11.27 cents?

A. That is approximately correct, yes, sir; that is correct, from memory.

Q. What is the capital stock of the United?

A. $30,000,000.00.

Q. Par value?

A. Par value, yes, sir.

Q. You have no funded debt outstanding?

A. No.

Q. Were you able to pay a dividend in 1929 on your capital stock?

A. Yes, sir, there was a dividend paid in 1929.

Q. How much?

A. I do not have that figure with me.

1723

[fol. 3124] Q. Oh, don't you remember—honor bright?

A. No, sir, I do not, frankly; I do not, frankly, Mr. Butler; if you will recall there was some six or seven companies I mentioned; I could mention two or three more that I am assistant treasurer of and I could not possibly remember all of the figures that come up on those companies.

Q. Oh, I know. Well, examine page 17 of this report for the year 1929 by The United Fuel Gas Company to The Public Service Commission of the State of West Virginia.

A. That will refresh my memory I am sure.

Q. Yes, I think it will; you can give me now tell me now what dividend you did pay in 1929?

Mr. Turner: May I see the book for a moment.

The Witness: Dividends declared during the year 1929 for the United Fuel Gas Company were $5,550,000.00.

Q. What percent; pretty nearly 18 percent?

A. Approximately, yes, sir.

Q. Approximately 18 per cent.

(No reply.)

Chairman Geiger: What was that 18 percent, Mr. Butler?

Mr. Butler: The United paid on its capital stock as a dividend in 1929.

Chairman Geiger: What percent?

Mr. Butler: 18 per cent.

By Mr. Butler:

Q. There are three places where the United sends gas across the Ohio River that eventually finds its way into the transmission lines of The Ohio Fuel Gas Company, are there not?

A. I only recall two.

Q. What two?

A. At Ravenswood and Kenova.

Q. Isn't there somewhere across the river that gas goes

1734

[fol. 3125] through the Connecting Gas Company's lines and is brought up to Sugar Grove or Wheelers?

A. Oh, yes.

Q. Where is that?

A. I don't know where it is, but I know that that does cross the river.

Q. Have you records daily showing the amount of gas sent across the river to The Ohio Fuel Gas Company for the year 1929?

A. Such daily records are prepared but I do not know how far back they keep such records, because those records are simply made up for the operating department for the time being and after they serve their purpose they are of no further use to them.

Q. Of course, 1929 would not be so very far back, would it?

A. Well, it is only used by the operating department for current operating conditions.

Q. You have, or your company has, an exhibit that was used in the West Virginia case relative to your gas leases, I believe?

A. I am sure they must have one but I certainly have nothing to do with that; I was not connected with it.

Q. Well, you were connected with that case; I see that Judge Ritz in his brief speaks in a very complimentary way of a certain Mr. Hightowers, and I got the suspicion that that might be you; am I right?

A. I hope so. I did not see it. I am going to look that up.

Q. You don't know about that?

A. I do not recall it now, no. You might specifically call it to my attention. I was assuming you meant some of the special valuations placed on the leases—some of the valuations.

1738

[fol. 3126] Q. Well, when you come to amortize you amortize, this adjusted book value or cost?

A. We amortize the figure that is on the books.

Q. The $38,900,000.00?

A. Oh, do you mean for the purpose of this

Q. Yes for your 80?

A. Oh, yes, we amortize the adjusted figure, yes, sir, that is right.

Q. Did you work out your own theory of amortization or did you merely use and accept without any reflection of your own judgment what the Commission had fixed?

A. I simply accepted the amount allowed by the Commission for the purposes of this exhibit.

Chairman Geiger: What number is that?

The Witness: No 80

Q. By the way, have your superiors commissioned you with authority to give to us an exhibit showing the unit detail of costs used in the appraisal of your property?

A. Oh, no.

Q. How?

A. No.

Mr. Butler: Well, Mr. Turner, have you one for us?

Mr. Turner: I have not.

Mr. Butler: Will you produce one, Mr. Turner?

Mr. Turner: I have no means of producing one, sir; it is not available to The Columbus Company—not available to the Columbus Company.

Mr. Butler: Why not, Mr. Turner?

Mr. Turner: Well, I can say the sun is shining and you can ask me why not. I am here in Ohio; that company is there in West Virginia. I doubt if they have anything of the sort. It is the first time I ever heard of you asking me

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[fol. 3127] for it and I never found out whether they had one or not.

Mr. Butler: Why, the order of the Commission directed that.

Mr. Turner: Did it? Well, I don't think so, and I have one right here before me.

Chairman Geiger: Well, did that appear in the case before the West Virginia Commission?

Mr. Turner: I doubt it; I don't know whether it did or not. I have just spoken to Judge Ritz and it is his recollection that the engineers in that case pursued the ordinary way of interchanging information and making their examination. Now I have just got that secondhand, you know; that is Judge Ritz's remembrance of it, that they exchanged information and that there was no such exhibit. If there was and they can point it out, why, that is another matter.

Chairman Geiger: While we are pausing a moment, could you give us any fairly definite information as to the relative cost of producing gas in what would roughly be known as Ohio territory as against West Virginia and Kentucky territory? Is it more expense to produce it in Ohio or in Kentucky or in West Virginia?

The Witness: We do not produce any in Ohio, of course.

Chairman Geiger: No, but you know what prices are. Well then, take it as between West Virginia and Kentucky, which is the most expensive production?

The Witness: Why, I have never compiled a figure of that kind, Judge; I would have to go into it.

Chairman Geiger: All right, if you don't know.

The Witness: Well, I may have some thoughts on it but

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[fol. 3128] I certainly do not know.

Chairman Geiger: Well, do you know anything about the character of the gas bearing rock or its depth from the surface or any other thing that would indicate that one field was more expensive to exploit than another?

The Witness: No. In our department we have statistical figures, but——

Chairman Geiger: But you don't know anything about that?

The Witness: No.

Chairman Geiger: All right.

Mr. Butler: If the Commission please, they did have those matters worked out down there, and in Judge Ritz's brief before the Commission he——

Mr. Turner: Page, please?

Mr. Butler: 177; 176 and 177, you will find a lot of accounts printed. But referring to the last one, for example, Account 226, "Transmission Line Equipment, Comparative Costs", they got down into detail; "Ford, Bacon & Davis, based on man excavating 3.5 cubic yards per day; Blundon, for the municipalities, based on man excavating 7 cubic yards per day."

Now they have those matters; and look at Accounts 213 and 214 where they have worked out apparently the details. Take that Table 4, Mr. Turner, being the second inserted sheet following 176.

Mr. Turner: That don't prove that they had an exhibit in that case. They can get together and give those things. I can not answer that question. Furthermore, I don't see how it would be material if they had a dozen of them, now

1741

[fol. 3129] it would be material in this case.

Mr. Butler: Well, that is just what you have been contending.

Mr. Turner: Yes, and that is a matter that I do not give in to you on.

Mr. Butler: I am not asking you to. In this big case down there they found it quite essential—take that Table 4; see how carefully it is worked out.

Mr. Turner: They are not going to give the appraisal; I don't see how I could get the detail.

Mr. Butler: They are not going to?

Mr. Turner: They are not going to give it.

Mr. Butler: Well, maybe they will.

Mr. Turner: There is plenty of authority of corporations; the latest is Smith versus

By Mr. Butler:

Q. Now, Mr. Hightower, I seem to have the ground and usually we rush up against because of your lack of knowledge, and that the slightest criticism of you.

A. Thank you.

Q. Because you are an accountant and quite understand the reasons; but it does further unless some one is produced who facts. But in conclusion I should like to in this Exhibit 80 there is in there an exercise ent judgment on your part, or whether merely an acceptance of the figures and out by the majority of the West Virginia that you have simply taken those figures and those principles and made these

[fol. 3130] if there is any place where you independent judgment I can well cross it, but if there are no such places you.

A. I think I stated that basically I of the West Virginia Commission, but judgment was allowed me in connection figures I used it.

Q. Well, where do you——

A. You have to accept the figures on room for independent judgment; you have is and I certainly did that.

Q. Well, that is not an independent

A. Within the limits of that; that could go.

Q. Well, of course, when you added book figures?

A. Yes, sir.

Q. And when you added 1930 you

A. Yes, sir.

Q. Now, back in 1929, was there or did you take anything except what found and decided and written out?

exception the figures of the Commission as of December 31st, 1953.

Q. Now, as I say, you made one exception this morning, you put in the whole of the management fee?

A. Yes, sir.

Q. Whereas the Commission was at fifty per cent?

A. Yes, sir.

Q. Well, I think, Mr. Hightower, in the absence of any other papers or documents, that is all, except I wish you would mark [illegible] Exhibit 50 and those other exhibits on December 31st, 1953 as of December 31st, 1953 because that is

Q. 174

[illegible] that we are going to call as our other exhibits

A. I would do that.

Q. All right, if you will be good enough

[illegible] Mr. Hightower, in the list of [illegible] Mr. Butler No. 14 believe is refused?

The Witness: Yes, sir.

Chairman Wright: Is that correct?

The Witness: That is true.

Chairman Wright: Under the same circumstances that [illegible] to No. 6?

The Witness: No. 6 is the same thing.

Chairman Wright: Well now, is that contract in exist[illegible]

The Witness: Under Georgia law there was no ob[illegible] that contract prior to January 31st, 1954.

Chairman Wright: Well, who is The United Gas Corporation [illegible] of your company?

The Witness: As far as I know they are not.

Chairman Wright: Well they are a subsidiary of The [illegible] Electric Corporation?

The Witness: I do not think so, Your Honor, I am not [illegible]

Chairman Wright: Where did you get that, Your Honor?

Mr. Rogers: All right, I just wondered why is that [illegible] what is the objection to producing the contract, you do not assume to know [illegible] and they would not produce it?

The Witness: No, that was in the mind of the president

Mr. Turner: You said there was no gas delivered under that prior to January 1st, 1931?

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(fol. 3132) The Witness: I did.

Chairman Geiger: Has there been any delivered subsequent to January 1st, 1931?

The Witness: A small delivery, yes, sir.

Chairman Geiger: When was the contract made?

The Witness: I think it was made in December, 1930.

Chairman Geiger: Well now, don't you think you were just a little misleading us to say there wasn't any delivery prior to December 1st, 1930? It was not made until that time.

Mr. Turner: He answered my question, if the Commission please, if you would listen to the question.

Chairman Geiger: Pardon me, Mr. Turner; I am sorry that I fall within your condemnation.

Mr. Turner: Well, you do, if Your Honor please, and I want you to be fair to my witness.

Chairman Geiger: Well, I will try to preserve my temper to some extent.

Mr. Turner: Well, it is very hard for me to do so in view of the question.

Chairman Geiger: You are a little more fiery tempered than I am and a little harder to control.

Mr. Turner: All I ask is, Fairness, you are making assumptions here that are not fair.

Chairman Geiger: Would you read the record, Mr. Clerk, back to the time of the question I asked him about that?

(Record read.)

The Witness: Mr. Chairman, in answer to that question I would like to say that I assumed that you gentlemen, in asking about this contract, knew when the contract was

1745

(fol. 3133) made. The question was never asked me and I have no intention or desire to mislead this Commission in any answer I make.

Chairman Geiger: All right, that is all.

Mr. Butler: Just a moment.

By Mr. Butler:

Q. Who ordered you up here, who sent you up here as a witness? Who told you to come up here?

A. Judge Ritz informed me that it was requested that I should come up here as a witness.

Q. And Judge Ritz is the general counsel for The United Fuel Company?

A. He is, yes, sir.

Mr. Butler: All right; that is all.

Redirect examination.

By Mr. Turner:

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[fol 3434] Q. You were asked about some property of The United Fuel Gas Company in Ohio; as I understand, that is merely distributing property at these points named; is that correct? You do not produce any gas in Ohio?

A. We produce no gas in Ohio.

Q. And you have this little distribution property over here for those towns that Mr. Butler asked you about?

A. That is true.

Recross examination.

By Mr. Butler:

Q. How many miles of transmission line do you have in Ohio?

A. All of the lines in Ohio are used for the distribution of gas.

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[fol 3435] Chairman Geiger: Let me ask you this, to visualize it in my own mind; if gas is flowing across the Ohio River into Ohio territory, does it ever flow back into either West Virginia or Kentucky territory?

The Witness: From Ohio do you mean?

Chairman Geiger: Yes, Ohio back into West Virginia or Kentucky?

The Witness: Oh, No.

Chairman Geiger: When it comes to Ohio it never gets out of Ohio unless it goes on through to Indiana?

The Witness: Well, I don't think it goes to Indiana.

Mr. Turner: If Your Honor please, we are confusing things here because these lines we are talking about here and that the witness has in mind are the lines from Coal

grove on down through Ironton and Hanging Rock and Wheelersburg; those are the ones we are talking about.

Commissioner Bricker: Those lines are not on the Ohio side, are they?

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[fol. 3136] Mr. Turner: Yes, there is a line on the Ohio side there, that goes that distributes to those towns.

Commissioner Bricker: Just from Coalgrove up into Portsmouth, but from Coalgrove up into Ironton maybe I haven't got Ironton placed. Oh, I see; I have it now.

Mr. Turner: Coalgrove, Ironton and Hanging Rock.

Chairman Geiger: If I could get this without it going into the record and yet Mr. Turner does not like it, as I understand, your question is to show to the Commission that you are unable to show the amount of gas that comes in from Kentucky to Ohio because there is *no* flowage of gas from Ohio somewhere else?

Mr. Turner: Oh, no, no, no. I asked the question, and I think the witness answered it clearly, that the gas being delivered to Kenova the West Virginia and Kentucky gas could not be segregated exactly. We were then talking about another subject and I passed on from that, he having answered it, passed onto these other questions. Now, for Your Honor's benefit, I was developing that these Kentucky and West Virginia gases were mixed before they got to Kenova, or at Kenova.

Chairman Geiger: I understand that.

Mr. Turner: Now I went to another question, to show that we had no transmission lines in Ohio, or that they had by the way, I used that word inadvertently. You spoke of "your attorney"; do you refer to me as your attorney?

The Witness: I did not mean to.

Mr. Butler: Be careful about that.

Mr. Turner: Well, I wanted a fee, if I was attorney for

1752

[fol. 3137] that company; get that in the record, and I can send them a bill.

Now, if the Commission please, I am not sure that I introduced Exhibit 80, and I offer it now.

Chairman Geiger: Admitted.

Mr. Butler: I do not understand how gentlemen can bring the West Virginia matters here by a witness who

makes assumptions and then uses those figures for his own purposes. I do not object to his making calculations upon assumed figures, but we do object, and will carry the question along, that his assumptions do not prove those facts.

Mr. Turner: If the Commission please, we introduced in evidence the West Virginia Commission's findings; they are in evidence and admitted, and this is based upon the figures in Exhibit 80, and there has never been any attempt to say that they are anything less than that.

Is this exhibit admitted, Your Honors?

Chairman Geiger: Well, we thought there was no objection; is there any objection, Mr. Butler?

Mr. Butler: Yes.

Chairman Geiger: Well, do you object?

Mr. Butler: Yes.

Chairman Geiger: Well, now, we will hear you on the objection.

Mr. Butler: Well, the point is this—

Chairman Geiger: Let me see if I see your points; you object to it because it has been testified to as a compilation of figures made by this gentleman without personal knowledge himself, but taken from the West Virginia report?

1753

[fol 3138] Mr. Butler: Yes. Now, I think Your Honors can admit it as an analysis, but—

Chairman Geiger: I think that is what we will do.

Mr. Butler: Of alleged facts, and determine later.

Chairman Geiger: Objection overruled; exhibit admitted for the purpose of throwing light upon the question.

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[fol 3139] Recross-examination

By Mr. Butler:

Q. Mr. Hightower, I understood you to say to me awhile ago that the pipe line running up to Kenova and across the river carried practically all Kentucky gas and that the amount of West Virginia gas in it was so negligible that it could be forgotten; did you mean that or not?

A. As I understood the question at the time, yes, sir; you were referring specifically to the gas that was being delivered to The Ohio Fuel Gas Company at Kenova, that was true.

Mr. Turner: That is all.

By Mr. Butler:

Q. I see that on the Ohio side from Coalgrove running down the river past Hanging Rock, Wheelersburg, and over around the Bend towards New Boston and Portsmouth you have a ten inch line; do you call that a distributing line?

A. Did you say from Coalgrove?

Q. Yes.

A. Well, part of that of course is six inch.

Q. Well, and from beyond Hanging Rock ten inch?

A. That is right.

Q. You call those distributing lines?

A. For practical purposes; that is all built up along 1765

[fol. 3140] the river and it is used in the distribution system there.

Q. Well, where do you go around the Bend there, to New Boston?

A. To New Boston, yes, sir.

Q. Now, you mean to say — or do you know enough about the engineering business of this company to say whether or not ~~you through that~~ line, that ten inch line around by Wheelersburg and New Boston, comes into Portsmouth?

A. I know that very little of it does.

Q. How do you know that?

A. From the study of the records in the West Virginia rate case; it was necessary in connection with the discussion this morning of how we arrived at the allocation of the transmission lines.

Q. What is that H. D. & G. Company in there, between Portsmouth and some place — or is that a different line — that broken line near New Boston — that broken line, what company is that?

A. That belongs to The Portsmouth Gas Company.

Q. Well, why is that line run up to your line at New Boston?

A. As I recall the situation, Mr. Butler, the City of Portsmouth practically surrounds the City of New Boston — goes all around it — and New Boston — they are trying to get New Boston into the city and have never been able to do so. It is practically an island there; it is almost surrounded by the City of Portsmouth.

Q. But this particular broken trunk line there connects up at each end with the United lines?

A. That is true.

[fol. 3141] Commissioner Geiger: Are you ready, Gentlemen?

Mr. Turner: Yes, Your Honor.

Mr. Butler: I have a paper which I shall ask to be marked City's Exhibit No. 30.

And thereupon the document last above referred to was marked for purposes of identification herein as City's Exhibit No. 30.

Mr. Butler: If the Commission please, this is a certified copy of the opinion of the West Virginia Supreme Court of Appeals in the case wherein The Columbus Gas & Fuel Company introduced the findings of the Public Service Commission of West Virginia.

Mr. Turner: May I see it before it is offered?

[fol. 3142] Mr. Butler: Well, it is a certified copy; I assumed you did not want copies.

Mr. Turner: When was this certified, Mr. Butler?

Mr. Butler: I do not know; you can see there, Mr. Turner; we just sent down and got it.

Mr. Turner: This is not a correct copy, notwithstanding the certification; I am very sure, because I got another copy of it Monday.

Commissioner Geiger: Certified?

Mr. Turner: It is not certified, but it is corrected from the Court. May it go in evidence here? We will furnish a later certified copy.

Commissioner Geiger: Well, we have the record a lot of stuff from West Virginia now; don't let's have two copies of an opinion.

Mr. Turner: Then may it please the Commission, I was simply trying to facilitate matters.

Commissioner Geiger: Let it go in now as it is certified, and if another copy comes in certified different from this, then this will be withdrawn and the other put in its place.

Mr. Turner: All right.

[fol. 3143] Commissioner Geiger: It occurred to me how much of this record is taken up with a lot of things from the West Virginia case that was put in by you and seemingly modified to some extent by the Supreme Court decision.

Mr. Turner: I don't know.

Commissioner Geiger: Couldn't you think of withdrawing the whole thing from the record? Why would you ask

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[fol. 3144] us to read a lot of record in a case that the Commission finds one way and the Supreme Court finds another? We don't want to be bothered with that unless we have to, but that is up to you. Don't let's make the record longer than we have to.

Mr. Butler: Please let this be marked City's Exhibit No. 31.

And thereupon the document last above referred to is marked for purposes of identification herein as City's Exhibit No. 31.

Mr. Butler: This, if the Commission please, is a certified copy of the order of the Supreme Court of Appeals and Mandate in that case reversing the Commission, and now we again submit to the Commission that there has been nothing whatever offered that this Commission can entertain in respect to the United Fuel Gas Company. They stand without any attempt—I mean legal attempt, of course, to comply with the orders of the Commission.

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[fol. 3145] J. P. Buckson further testified:

Direct examination:

Q. Will you just please explain that study?

A. This is a study to determine the maximum fair price for gas delivered by The United Fuel Gas Company to The Ohio Fuel Gas Company at Ravenswood, West Virginia, and, as presented here, is on three bases.

First, according to the decision of the West Virginia Commission as of August 16th, 1930, fixing the rate base and operating expenses of the United Fuel Gas Company

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[fol. 3146] as set forth in case No. 1926. This decision was afterwards reversed by the West Virginia Supreme Court

of Appeals and an additional decision rendered October 3rd, 1931, in connection with the fixing of a temporary rate; so that the figures given under the heading "West Virginia Commission" are higher than were found in the later decision.

The figures given under the head "Ohio Bases" are the figures found in the West Virginia case adjusted to the basis of the claims of the City in this case. I will explain the adjustments later under the head of "Ohio basis".

The figures given under the head "Protestants Basis" were the claims of these protestants protesting cities in the West Virginia case.

Now, under the head of "West Virginia Commission" there is listed under "Value" the rate base that the West Virginia Commission determined for production property, transmission property, general property and leaseholds.

Mr. Turner: Would you wait a minute? I want to get, Mr. Davies, this Ohio basis. That means the cities' claims, does it not?

The Witness: Yes, sir; it is the cities' claims in this case, yes, sir.

Mr. Turner: That is what I mean; the West Virginia Commission the Ohio basis. I do not want to get confused.

The Witness: I will explain that when I come to it.

Mr. Turner: Pardon the interruption.

The Witness: Under the heading "Allocation Factor" we have determined and set forth there the various allocation percentages allocating The United Fuel Gas Company

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[fol. 3147] property to the service of The Ohio Fuel Gas Company, according to the method adopted by the West Virginia Commission, which I might say was the company's method of allocation and not the city's. You will remember I explained there was a difference on the demand mileage.

The application of those factors determines the allocated value as shown under "allocated value".

We have included, for going value 10 per cent of the physical property, which was the finding of the West Virginia Commission in their decision of August 16th, 1930, and have included the same amount for working capital as

they found in that case for the regulated business, giving a total rate base of $8,843,556.00.

Allocation percentages determined in the same manner were applied to the various operating expenses as shown under the heading "Operating Expenses", making a total gross operating expense of $1,247,293.00, being the gross operating expenses allocable to the service of The Ohio Fuel Gas Company, from which is subtracted the gasolene earnings, $122,052.00, leaving a net operating expense of $1,125,241.00.

The subtraction of gasolene earnings is in accordance with the finding of the Courts and Commissions in the West Virginia case to the effect that 50 per cent of the profits of The Virginian Gasolene & Oil Company should be credited against the operating expenses of The United Fuel Gas Company for the privilege of the extraction of gasolene from the natural gas.

To the net operating expense we have added amortization and depreciation at the rate of 5.27 per cent of the rate base, and have added thereto return at the rate of eight per cent

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[fol. 3148] of the rate base, giving a cost of service of $2,298,780.00, or a cost per M of 20.061 cents.

Q. That is for gas at the Ohio-West Virginia line?

A. Under the decision of the West Virginia Commission as of August 16th, 1930.

Mr. Turner: Is that at the Ohio line or at Spencer Station?

The Witness: That is at the Ohio line, or at Ravenswood.

By Mr. Davies:

Q. Now, did I understand you to say that this basis of the West Virginia Commission was changed by the Commission in its ruling on the temporary rate?

A. It was very materially changed, and lowered.

Q. Lowered, you say?

A. Yes, sir.

Q. Proceed.

A. Under the heading of——

Commissioner Bricker: Just one question; has that case gone to the Supreme Court yet from the Commission?

Mr. Huffman: Yes, and back to the Commission.

Mr. Turner: No, sir, it was to the Supreme Court and back to the Commission and now there is a temporary rate fixed and it has not gone back to the Supreme Court.

Mr. Huffman: The decision of the Commission was only made October 3rd, only a few days ago.

Mr. Turner: Last week.

Commissioner Bricker: We haven't yet got a copy of the opinion of the Commission in the temporary rate case.

Mr. Turner: No, it has not been introduced.

Mr. Huffman: We will furnish that. We might point out that the new decision leaves out an allowance for going 4370

[fol. 3149] value as a separate allowance and lowers the rate of return from eight per cent to seven per cent.

Mr. Turner: That is for the purpose only of a temporary rate.

Commissioner Bricker: Did the Supreme Court in its decision order them to cut the going concern value?

Mr. Turner: Yes, sir.

Mr. Huffman: Ordered them to reconstruct it.

Mr. Turner: It criticized the method; that is, the use of an arbitrary percentage.

Commissioner Bricker: They used 10 per cent?

Mr. Turner: Yes, sir, they used approximately 10 per cent.

By Mr. Davies:

Q. Before the recess I think you completed your explanation of the West Virginia figures on page 14 of Exhibit No. 74?

A. Yes, sir.

Q. Will you now proceed with your explanation of the Ohio basis and Protestants' basis as they appear on that page?

A. The figures shown under the column headed "Value" under the Ohio basis are the same figures for production, transmission and general property as were used under the West Virginia basis, with the exception that they have been changed to include 14 per cent for general overheads rather than the 17 to 20 per cent which the West Virginia Commission included in their finding of August 16th, 1930.

Commissioner Bricker: Why
or what was the basis of using 1+

The Witness: The basis of
case. I might further say that

[fol. 3150] Virginia Commission
3rd, 1931, went to 1+ per cent.

Opposite "Leaseholds", under
included the No. 1 acreage in
$5.00 per acre arbitrarily? Which

Commissioner Bricker: That
United case, do you mean?

The Witness: This is the United
to now, fixing the price for gas at

Commissioner Bricker: Well,
that the West Virginia Commission

The Witness: No, sir, the W
took a figure of $7,914,037.00.

Commissioner Bricker: What
acre?

The Witness: Roundly, $2
course, the West Virginia finding

Mr. Turner: And you have
The Witness: In this exhibit
$5.00 per acre on the No. 1 of West
Commissioner Bricker: What
your valuation?

The Witness: I have just
on I will testify to the change
ous rates per acre.

By Mr. Davies:

Q. Just assuming for the
A. In the next study I will
assumed $5.00 per acre, because
value to the leaseholds at

[fol. 3151] figures to show what
will make.

The going value was
changed from $
mately 1/6 of the
of The Ohio Fuel Gas Company

The Witness: Of West Virginia, yes, sir.

Commissioner Bricker: The charts that they presented in that United case there?

The Witness: Yes, sir.

By Mr. Davies:

Q. Using those figures now, what is your computation?

A. We come down in the same way and arrive at a fair price for gas at the Ohio River in wholesale quantities of 15.628 cents per M based on a seven per cent return.

Mr. Turner: I should have probably added that we have an additional objection to that on the question of Interstate Commerce, we have pending, you know, an objection to all [illegible] questions. This is an attempt to fix something that

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[fol. 3154] passes in interstate commerce, it is an attempt to fix a rate on something that passes in interstate commerce.

By Mr. Davies:

Q. Mr. Rhinelen, which class of these figures did you use in adjusting the operating expenses of the Ohio Fuel Gas Company in this connection?

A. I used the class of figures under the heading "West Virginia Commission decision."

Q. Which is the highest figure?

A. Which is the highest figure?

Q. Namely, 20.61 cents?

A. That is correct.

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[fol. 3155] Mr. Butler: If the Commission please, the Public Service Commission of West Virginia, upon further evidence and argument, have handed down a report and order, with an opinion by each Commissioner, and that is their Bulletin No. 127.

That relates to the investigation of rates of The United Fuel Gas Company. It is printed. It is possible that one copy may be useful. We will have more copies presently, as we hope. I assume that our friends on the other side have had a copy, as we have had; therefore I offer this as City's Exhibit No. 76.

Mr. Turner: Objection.

Commissioner Bricker: On what grounds?

Mr. Turner: This is merely an opinion that relates to the fixing of a temporary rate and is not material here in this case. On our former objections, of course, the Commission has passed upon that; we are also embracing those original objections here in our objection—original reasons.

Commissioner Bricker: We feel since we have the original we ought to have this, even though it might be a tem-

4518

porary order, in the record also.

Mr. Turner: I am not unmindful that that is logical, but my objection is also logical.

Commissioner Bricker: And you may note an exception.

Mr. Turner: Thank you.

And thereupon the document last above referred to is offered and admitted in evidence on behalf of the City of Columbus, subject to the above objection and exception of The Columbus Gas & Fuel Company, and is herewith submitted and marked City Exhibit No. 76.

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[fol. 31361] Rhuodon—direct examination.

Q. I hand you what has been marked for identification as City's Exhibit Number 88 and ask you if that is the study you just referred to?

A. It is.

Q. As supplemental to City Exhibits Numbers 74 and 75?

A. Yes, sir.

Mr. Turner: You say that is supplemental?

Mr. Davies: Yes, to City's Exhibits 74 and 75.

Q. Directing your attention to the first subject treated there, the allocation of United Fuel Gas Company property, beginning with Page 1 of that Exhibit, I will ask you to please explain that if you will?

A. The allocation of the United Fuel Gas Company property to determine the gate rate or a fair price for gas at the Ohio River, gas delivered to The Ohio Fuel Gas Company at Ravenswood, West Virginia, is exactly the same—

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[fol. 3157] Q. Excuse me just a minute. I have lost my no, here it is.

A. (Continuing:) Study as was presented on Page 14 of Exhibit 74, except that it is based on the West Virginia Commission's finding of October 3rd, 1931.

On Page 2 of Exhibit 88, we show the findings of Commissioners Mahood and Nethken, who agreed in the entry of the order of the West Virginia Commission of October 3rd.

Mr. Turner: That did not fix final values, however, did it, Mr. Davies?

Mr. Davies: What do you say to that, Mr. Blandon?

Mr. Turner: That order of October 3rd fixed no final values. That deferred the fixing of final values until further evidence was put in.

The Witness: I wouldn't say that, sir. I would say that it gave the opinion of the Commission as to the values of the property of the United Fuel Gas Company, subject to the order of the Supreme Court of Appeals of West Virginia, entered in that case on March 10th, 1930.

Mr. Turner: You know they are taking testimony there today, don't you, on the value of that property?

The Witness: No, sir, I did not say that.

Mr. Turner: Well, I say that.

The Witness: Let me explain what happens there today. The Gas Company petitioned the Public Service Commission for a rehearing on its order of October 3rd.

Mr. Turner: That is the temporary rate.

The Witness: Yes, sir.

Mr. Turner: We subject that the exhibit which is in evidence here, introduced by the city, will show that the Com-

[fol. 3158] mission on October 3rd did not find a valuation. They discussed the valuation which had been found, but left the matter of final valuation until a later date and further evidence.

The Witness: That is correct. There will be other testimony and other evidence introduced there. But I understand that to be a finding of value for the purposes of a temporary rate.

Mr. Davies: That was true. It was a finding of value for the purposes of temporary rate, and these are the figures you have in this exhibit.

The Witness: Yes, sir, these are the figures we have here. First, under the head of Commissioner Mahood, his figures, and under the heading of Commissioner Nethkin, his figures. Commissioner Kauffman's figures are practically the same as Commissioner Mahood.

Mr. Turner: Going concern is entirely omitted from these figures on temporary rates.

The Witness: I would not say so, no, sir.

Mr. Turner: The allowance that was made was taken out, the practically ten per cent allowance was taken out.

The Witness: The original decision of the Commission allowed ten per cent for going concern value. The opinion of October 3rd allowed 14 per cent for general overheads and going concern value.

Mr. Davies: Which was a reduction from 20 per cent down for general overheads.

The Witness: The opinion of August 16th, 1930, allowed 10 per cent on production, distribution and general property and 20 per cent on transmission property.

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[fol. 3159] Mr. Turner: Plus ten per cent. for going concern.

The Witness: Plus ten per cent. for going concern value, that is, ten per cent. of the physical property.

Q. That is all in your study in your Exhibit Number 74?

A. Yes, sir, that is all in the study on Page 14 of Exhibit 74.

Commissioner Bricker: How does the total valuation fixed by the West Virginia Commission in arriving at a temporary rate compare with the valuation which was originally fixed?

The Witness: It was very materially reduced.

Commissioner Bricker: That largely because of the 10 per cent. for going concern.

The Witness: 10 per cent. for going concern and a reduction in the general overheads.

Commissioner Bricker: How much?

The Witness: From 17 and 20 per cent. to 14 per cent.

Commissioner Bricker: That 14 was over all of the property?

The Witness: Yes, sir.

Mr. Turner: And the leasehold valuation has not been adjusted as directed by the Supreme Court?

The Witness: No, there might be some difference of opinion on that. The leasehold valuation has not been changed.

Mr. Turner: That will answer the qustion. We will let the Commission judge the rest of it.

The Witness: Let me make one other comment on this matter of general overheads. Commissioner Mahood and

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[fol. 3160] Commissioner Kauffman found the value of this property as of December 31st, 1928, in which they included 14 per cent. for general overheads. Now, Commissioner Kauffman brought his down to December 31st, 1930, by another method. Commissioner Mahood then brought his down to December 31st, 1930, by the historical cost, and in bringing it down on the historical cost, he used 8.04 for general overheads.

Commissioner Bricker: By "historical cost" you mean general additions since the date of the first finding?

The Witness: No, going back to the original cost.

Commissioner Bricker: Oh, he actually found the historical value of the property, did he?

The Witness: Yes, sir. What he did was this. He took the value of the property as evidenced by what it cost the company to build it. Then he found the value of the property that the company had built prior to 1913, and he added to that 55 per cent. to bring that down to present day. He added that to the original over-all cost of the property, and included 8.04 per cent. for general overheads.

Q. How close did he come to the other valuation?

A. Why, about the same. I think Mahood's estimate was $10,167,000.00, and Commissioner Kauffman was $10,180,000.00.

Commissioner Bricker: They were just shooting at a mark. He could adjust his overheads to suit his convenience.

The Witness: No, the amount that he took for general overheads was Jirgall's estimate of what the overheads had actually cost the company. That was $2,040,000.00, of which a part was carried on their books and a part on estimated expense that had been incurred by the company, paid out of

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[fol. 3161] operating expenses or for which no account has been taken on the books.

Commissioner Bricker: Doesn't it seem rather amazing to you that you could arrive at that close a figure by these two completely different methods?

The Witness: Yes, sir.

Commissioner Bricker: Especially when the one is so fluctuating as it is.

The Witness: Yes, sir.

Mr. Turner: You will find if you want to look at that matter or the discussion of it at Page 60 of City's Exhibit Number 76, being the report and order of the Commission of October 3rd.

Commissioner Bricker: On what testimony were the overheads of the other commissioners based?

The Witness: You mean the 14 per cent.?

Commissioner Bricker: Yes.

The Witness: It was on my testimony.

Commissioner Bricker: And the 17 that was originally made?

The Witness: Ford, Bacon & Davis.

Mr. Turner: 17 and 20, Your Honor.

The Witness: Yes, sir.

Mr. Turner: Did you testify again or was that your old testimony before it went to the Supreme Court?

The Witness: There was no other testimony taken on general overheads after the case came back from the Supreme Court.

Mr. Turner: That is what I wanted to get at. It was on the old testimony.

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[fol. 3162] The Witness: Yes.

Commissioner Bricker: That was on the old testimony?

The Witness: Yes, sir.

Mr. Turner: Of course, the Commission will study this when it comes to it, but my understanding of this order of October 3rd, 1931, is that the Commission simply made use of certain figures for the temporary purpose of a temporary rate.

Commissioner Bricker: Has that temporary finding—I think I asked this question this morning—has that temporary finding gone to the Supreme Court, or is it just now being heard today on an application for rehearing?

Mr. Turner: There is an application for rehearing pending, but I understood there was testimony taken today. But I do not know that to be a fact.

Commissioner Bricker: It will likely go to the Supreme Court, making that or some other rate a final rate.

Mr. Turner: Yes, I would not think it would go on this rate, but the final rate.

Mr. Davies: We are just submitting this on that study.

Mr. Turner: There is not a finding at all as to value, I claim here. That is what I want to emphasize so that the Commission will look at it and decide which of us is correct, because it seems to me clear that there is no decision of value here. They have simply said, "Well, we will take an assumed valuation here, and assuming a valuation, we fix this temporary rate." They took out those overheads and did not change the leaseholds.

Mr. Davies: That is true.

The Witness: On Page 2, if I may go ahead, the finding 4641 [fol. 3163] of the Commission of October 3rd was brought down to determine a fair rate for gas at the Ohio River.

Mr. Turner: Mr. Calland calls my attention to the fact that there was no ruling on my objection. Is that overruled?

Commissioner Geiger: Overruled.

Mr. Turner: Note an exception.

The Witness: This results for the fair price fixed on Commissioner Mahood's estimate of 18.0281 cents per thousand.

Thereupon The Columbus Gas & Fuel Company moved to strike out the above answer; motion overruled; exception by The Columbus Gas & Fuel Company.

Mr. Turner: Just so we do not interrupt on the examination on this exhibit, we want to have our objections and exceptions and motions to strike, and exceptions.

Commissioner Geiger: That is all right. That may be done.

The Witness: This is based on the finding of Commissioner Nethken, the fair price of gas at the Ohio River of 17——

Mr. Turner: Objection. I do not see where basing an opinion upon a minority of a Commission is going to help you at all.

Commissioner Geiger: What was the agreement with reference to the finding of the Commission in West Virginia? Did we have any?

Mr. Turner: Did we have an agreement? No, I don't think so.

Commissioner Geiger: That the testimony introduced there should be regarded as introduced in this hearing?

Mr. Turner: Yes, sir.

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[fol. 3164] Commissioner Geiger: Did we go so far as to say that the finding there binds us here?

Mr. Turner: No, I don't think that we went that far. We will claim, of course, that this Commission has no right to fix the valuation here——

Mr. Huffman: I think we first objected to exhibits of the finding of the West Virginia Commission, but the counsel for the company insisted on putting them in and we went along.

Commissioner Bricker: What he is testifying here to is nothing more or less than a study he made, based upon valuations that he does not assume to be right or wrong, that is to say, the same basis upon which these other exhibits were introduced.

Mr. Turner: Yes, and that is one of the bases of my objection. Now, he is taking Nethken, the minority member, taking his somewhat tentative valuations, because he certainly has not fixed a valuation in this October 3rd opinion—he has talked about what he thinks the values ought to be, but the Commission has not spoken, and Nethken has not been final.

Mr. Davies: Nethken joined Kauffman in that, did he not?

Mr. Turner: No, there were three different opinions, three different values, and Nethken came to the opinion that he ought to join somebody, and he joined the lower of the other two.

Commissioner Bricker: They all went through some mental gyrations to get at some valuations that were not very far apart when they got there.

Mr. Huffman: Yes, but I think that we can assume that

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[fol. 3165] the action they took in West Virginia with respect to this temporary rate was somewhere close to where they expect to stand eventually or they would not have taken it.

Mr. Turner: Oh, no, no, no.

Mr. Huffman: I do not see how we could assume they were not acting bona fide.

Commissioner Bricker: That is true, but they did not assume they were final, or they would have said so.

Mr. Huffman: Oh, that is true, or there must have been some reason for going from what they had had before even to establishing a new temporary rate. They certainly did not make a change without due consideration.

Commissioner Geiger: The matter to which you object will be permitted to go in. We understand what it is.

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[fol. 3166] The Witness: Under the finding of Commissioner Nethken the fair price for gas at the Ohio River would be 17.0469 cents per thousand. The figures in the last column under the heading "Protestant's basis" are as previously explained, except that the allocation factor of taxes has been changed, which I called attention to when previously testifying. It makes a slight difference.

Mr. Turner: Won't that change all of your working papers that we have on the river rate?

The Witness: No, sir, the allocations and the factor are the same in both of them.

[fol. 3167] Gas Leaseholds

United Fuel Gas Company

Necessity for Reserves. Value. Delay Rentals

[fol. 3167a] Mr. Turner: Those are carried under the number and names used by the West Virginia Commission.

The Witness: That is right.

Q. By the way do their numbers of the uniform utility accounting correspond to our numbers in Ohio?

A. I don't recall that, although I have a book on the Ohio [fol. 3167b] Commission system. There is no main difference.

Q. Will you mail me one of those books from West Virginia?

A. Yes, sir.

Q. That will enable us to check up the differences?
A. You will find no material differences.

[fol. 3167c] By Mr. Butler:

Q. Now the next?
A. No. 7; a copy of the West Virginia Public Service Commission Classification of Accounts.
I have a copy of those books here; that is all I have.

And thereupon the volume above referred to was marked for purposes of identification herein as Company Exhibit No. 86.

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[fol. 3168] W. J. Hightower further testified:

Q. Well, what value have you adopted; what total value, in your compilations in your Exhibit 80, have you adopted

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[fol. 3169] for the leases?
A. Page 18, in Exhibit 80, I have used $10,119,044.00.
Q. For Warfield and the United combined?
A. Yes, sir.

Chairman Geiger: What is your figure?
The Witness: $10,119,044.00.
Chairman Geiger: What did the Commisison find it to be worth?
The Witness: As of December 31st, 1928, they used an adjusted book value of $7,914,037.00.
Chairman Geiger: Was that their final figure as to the value of these two companies?
The Witness: That was their final allowance on these leaseholds.
Chairman Geiger: Oh, the leaseholds alone; well then, is $10,119,000.00 your value for the leaseholds alone?
The Witness: The difference is the net book additions for the year 1929 and the year 1930. You will find on page 18 of Exhibit No. 80——
Chairman Geiger: That is, you took the Commission's figures as a base from which you estimated the present value?
The Witness: Yes, sir.
Mr. Turner: Judge, you understood that he simply added what he found on the books as net additions?

Chairman Geiger: Oh, yes, I understood that. Now, in ascertaining those net additions, did you make allowance for depreciation of gas field by reason of the gas that had been removed in the two years?

The Witness: I did not. I make allowance for the lease-

1736

[fol. 3170] holds which had been surrendered during those two years; not for any depletion of the——

Chairman Geiger: Well, would you think it would be correct, if a gas field had been in use for two years, to have gas taken from it for the period of two years, and that you should regard the gas field then as worth as much, or do you only estimate it by the leaseholds?

The Witness: You see, Judge, these are not estimated figures; these are book cost figures.

Chairman Geiger: For the leaseholds themselves?

The Witness: Yes, sir.

Chairman Geiger: And not for the gas?

The Witness: Well, of course, they include the gas; if you were using a value figure then I think you ought to deplete it and show the depletion, but using book costs I question it.

Chairman Geiger: Well, was anything taken from the book value by reason of depletion?

The Witness: No.

Chairman Geiger: You just added to it what had been added leaving the original figure as found by the West Virginia Commission standing; is that correct?

The Witness: With the exception that we took into consideration and deducted the leaseholds which had been surrendered, the book cost of leaseholds which had been surrendered; otherwise you are correct.

Mr. Turner: May I ask a question along that line? Did you take off amortization from the adjusted book value of the Commission?

1737

[fol. 3171] The Witness: No.

Mr. Turner: That is what the Judge wants to get at.

Chairman Geiger: Yes. Well, now, is that an accurate measure, if you say you depreciate only to the amount of leaseholds that had been surrendered; isn't there a greater depreciation in a leasehold, in its value, that should be considered or not?

The Witness: Well, the West Virginia Commission did not so consider it.

Chairman Geiger: All right.

By Mr. Butler:

Q. What do you mean by an adjusted book value or book account?

A. The West Virginia Commission furnished that figure, Mr. Butler, and I accepted it.

Q. Well, what does it mean to you?

A. It means the actual value on our books for all of the leaseholds with the exception of that portion which was purchased from The Columbia Gas & Electric Company, and the Commission placed a value on that for the purpose of this figure here.

Q. Less then what you carried on your books as having paid the Columbia?

A. Yes, sir, although they practically accepted the figure that we placed in our exhibits in the rate case with some small difference, comparatively small.

Q. Now, your understanding is that that amount represents what the United paid for these leases?

A. With the exception noted.

Q. Of that one exception?

A. Yes, sir.

Q. And nothing by way of real or alleged appreciation in any way?

A. Oh, no, no appreciation at all; we tried very hard to get some.

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[fol. 3172] Blundon—Cross:

Q. What, if anything, did you do with the valuation of the leaseholds in the United Fuel Gas Company property as shown on your page 14 of Exhibit 74?

A. Figures shown under the West Virginia Commission is the finding of the West Virginia Commission on leaseholds. Under Ohio basis——

Q. No, no, I want the allocated basis there, the allocated value.

A. I don't understand you, sir.

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[fol. 3173] Q. You have leaseholds 7,914,037?

A. That is right, that is the finding of the West Virginia Commission of the total value of the leaseholds.

Q. Now, did you use that total value in getting your allocated value?

A. Yes, sir.

Q. You are satisfied with that answer, are you?

A. Yes, sir.

Q. Well, what do you mean then in the column under "Ohio basis for leaseholds" of $1,400,600?

A. That is $5.00 per acre for No. 1 operated.

Q. Of whose property?

A. Of the West Virginia property.

Commisisoner Bricker: That is the United?

The Witness: That is the United.

Q. That is the United property?

A. Yes, sir.

Commissioner Bricker: In other words, you have applied the same rule to the United property that you applied to the Ohio Fuel Gas property?

The Witness: That is right.

Q. And eliminated classes 2, 3, and 4 in the United property?

A. Yes, sir.

Commissioner Bricker: And took $5.00 as your own arbitrary figure rather than $25.00 which the West Virginia Commission used in the United?

The Witness: Approximately $25.00.

Commissioner Huffman: That is on his second basis.

Commissioner Bricker: Yes, sir.

The Witness: Figures shown under the West Virginia basis, of course, is just as they found them.

Commissioner Bricker: On both No. 1, 2, 3 and 4 leaseholds?

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[fol. 3174] Commissioner Bricker: And that was approximately the $25.00 average value over-all?

The Witness: Yes, sir, that is all.

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[fol. 3175] Q. Mr. Blundon, on page 14 of Exhibit 74 in column 5, you have eliminated from the property of the

United all leaseholds except those in class No. 1, have you not?

A. Yes, sir.

Q. And do you do that upon the theory that class 2 is not used and useful?

A. Are you asking me my opinion?

Q. I am asking you why do did it?

A. That is my opinion, that classes No. 2, 3, and 4 generally speaking, are not used and useful. Now, there might be some particular reason here in Ohio why they are.

4513

[fol. 3176] Q. Do you know of any sales in Ohio of gas leaseholds?

A. Yes and no. I wouldn't be able to testify to it in a comprehensive way at this time.

Q. I want to ask a question about that later. I haven't got a copy of the transcript here and my memory is not real sure about it. What do you think the United Fuel Gas Company ought to do with those leases on 2, 3 and 4?

Mr. Davis: We object, if Your Honors please, I don't see what pertinency that has.

Commissioner Bricker: Let him answer if he has got any idea about it.

Q. Can you answer my question?

A. I don't believe that I care to answer that. I don't believe I care to express an opinion on it.

Q. What portion of the 2, 3 and 4 lease properties of the United will it be necessary for that company to drill during the life of the ordinance here under investigation?

4514

[fol. 3177] A. for what markets?

Q. Well, you have testified to—they are supplying Columbus, it would have to take in all their markets?

A. That is the point I make, the markets that existed in 1928, the markets that exist now or the markets that are going to exist in the next ten years?

Q. The supply we are investigating in this case?

A. The United has a sufficient quantity of No. 1 acrage that has not been drilled to enable it to do considerable drilling without ever getting near the No. 2 acreage.

Q. Can you from an operating standpoint say whether it would be an advantage to drill the No. 2, 3 or 4 instead of drilling further the No. 1?

A. I have gone into that, sir. You must realize that the definition of No. 1 in the United case and the definition of No. 1 in this case are different.

Mr. Turner: I don't understand that my question calls for that answer. Will you read the question?

(Question read.)

Q. That is, in the West Virginia and United?

A. I can't answer in regard to that.

Commissioner Bricker: As soon as it is drilled and developed, I believe the company's testimony was it immediately then is passed over into the class 1 acreage, both in West Virginia and Ohio.

Mr. Turner: Yes, sir.

The Witness: That is not the testimony in the United case, sir.

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[fol. 3178] From Co. Ex. 102—United Fuel, 1928, Case

Thereupon came W. A. LARNER, a witness of lawful age, called on behalf of the respondent, who, after being duly sworn, testified as follows:

Direct examination.

By Judge Rummel:

Q. Where do you live, Mr. Larner?

A. New York City.

Q. What is your present business?

A. I am president of the Hamilton Gas Company, Thompson Gas Company, the Larner Gas Company and vice president of the West Virginia Gas Corporation.

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[fol. 3179] Q. Will you please tell us where the property of these several companies are located?

A. They are in southwestern West Virginia and in Northeastern Kentucky, in the counties of Clay, Kanawha, Lincoln, Putnam, Cabell, Wayne, and some small holdings in Boyd County, Kentucky, Floyd, and Knott County.

Q. Will you please state whether you have any interests in Logan County, West Virginia?

A. Yes, sir, I omitted that one.

Q. What has been your training and experience generally and especially in the natural gas business?

A. I was educated at Saint John's College, University of Maryland in 1919, and became interested in the affairs of an oil and gas company then in existence in Kentucky and West Virginia. It arose out of the estate of a very wealthy man, and my first interest in the matter had been to straighten out some legal and financial tangles. Subsequent, in 1921 I became actively in charge of it and from

756

[fol. 3180] that time on I have been exclusively in the gas business. That company had a little oil but it was of no great moment.

Q. And have your activities in the gas business been in southwestern West Virginia and Kentucky?

A. Practically entirely in the counties mentioned.

Q. Do the companies you have mentioned operated natural gas plants?

A. Yes, sir, exclusively.

Q. Do you distribute natural gas?

A. Only to natural gas pipe line companies, with the one exception, the West Virginia Gas Corporation, which sells direct to the industrial consumers in Huntington.

Q. And who are the industrial consumers?

A. There are only two, the Owens Bottle and International Nickel Company.

757

[fol. 3181] Q. You have testified that you are president of a number of these companies and vice president of the West Virginia Gas Corporation. What, if anything, did you have to do in the organization of these companies or any of them and in the purchase — gas properties?

A. My functions in these several companies are very largely, in the matter of finance, determining from whom we will purchase properties and determining whether leaseholds and other property of that sort offered to us shall not be purchased.

Q. You say that is a matter that is up to you?

A. Yes, sir, entirely.

Q. Can you give us some idea of the size of these companies?

A. Roughly, they hold under lease about 150,000 acres in the aggregate, of which the greater portion, 110 to 115,-

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[fol. 3182] 000 is in West Virginia and the remainder in Kentucky. I think there are 2,000 acres in Ohio but it is very small.

Q. Have you ever had any experience in taking up and renewing oil and gas leases?

A. In the matter of leases the direct negotiations are between the lessor and the company and is controlled by my subordinates. I do not myself take up leases. I have in one or two instances where large interests were purchased by us from large corporations have directed negotiations but ordinarily I do not.

Q. What experience have you had in the investigation of gas property for purchase?

A. I have had rather considerable experience covering almost the entire period of my connection with the gas business. The company I spoke of was owned by an estate and was in bad shape and I had through that connection engineers and practical field men and others make an in-

759

[fol. 3183] vestigation of the properties. That was mostly in northwestern West Virginia and later the Hamilton Gas Company had holdings in Nicholas County, in West Virginia, and bought several very large properties.

Q. As a matter of fact you have investigated more properties than you have bought?

A. Very much more.

Q. Was the failure to buy these properties due to lack of financial ability or because of their value and character?

A. The character of the property; the difficulty of securing any large holdings of sound value.

Q. Mr. Larner, are you acquainted with the location and character of the properties held by the United Fuel Gas Company and Warfield Natural Gas Company, and, in general, are these properties located in the Appalachian field?

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[fol. 3184] A. Yes, sir.

Q. Do the gas companies in which you are interested come within the same general geological field?

A. Entirely so.

Q. With the properties of the United Fuel Gas Company and Warfield Natural Gas Company?

A. Yes, sir, entirely. In fact, many of them are entirely with- this area and immediately adjacent to the property of the two companies.

Q. Are you familiar with other persons and companies drilling and operating properties within this same general territory?

A. Yes, I have kept in touch in general with developments and property for sale and, as far as I could keep in general touch with the industry.

Q. Give us the names of some of the larger operators?

A. The Cabot interest, I can't recall their corporate title, and the two companies, the United Fuel Gas Company and

761

[fol. 3185] the Warfield and the Inland.

Q. What is the Inland Gas Company?

A. It is a gas company in Kentucky, pipe line and distributing company. The Kentucky Fuel, Hope Natural Gas Company and a great number of small operators, I don't always recall the corporate names, and individual owners.

Q. And do you have more or less contact with these companies?

A. Yes, sir.

Q. Can you tell us whether large natural gas companies have geologists in their employ?

A. Yes, sir.

Q. And do you know whether they make use of these geologists in the study of the sands in the location of wells?

A. I understand they do——

Colonel Wallace: We make a motion to exclude what he

762

[fol. 3186] understands.

Judge Rummel:

Q. I will ask you whether your companies employ geologists, and are you familiar with their methods?

A. Yes, sir.

Q. Do your companies purchase gas from outsiders?

A. To a very limited degree, they will purchase a million and a half a day out of approximately 35 million a day.

Q. That is to say, a group of your companies sell about 35 million cubic feet daily?

A. Approximately.

Q. As a result of your experience in these gas fields since 1921, I will ask you whether you have acquired a knowledge of the continuity of the producing sands through the territory in which the United and Warfield Natural Gas Companies are operating?

A. In general, yes; and particularly so as to portions of

763

[fol. 3187] the state where I have property or interests. In other words, my interest there has been more active and particular than other sections.

Q. Will you please tell us just what part of the territory owned by the United Fuel Gas Company you are not so intimately acquainted with?

A. Well, I should say the Spencer pool in which we had no particular contacts in Calhoun County.

Q. That is to say you have no interests there and have made no particular study of that pool?

A. No. I have a general knowledge based on statements of geologists and engineers as to their experience in that area.

Q. But that is just general and not personal and not from investigation?

A. No, sir. That would also apply to a limited section here, Magoffin County, Kentucky, but I think there are only 234 acres in one class there.

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[fol. 3188] Q. You mean to say the Warfield Natural Gas Company has only 234 acres?

A. 234 acres in Class 1 and in Class 2, 10,000 acres lumped together.

Q. Mr. Larner, as president of these several companies do you keep track of the drilling operations of the large companies within the same general territory where your property is located?

A. I endeavor to do so; reports of that sort are functions of my own organization.

Q. And what is the purpose of keeping track of such activities?

A. That is to determine our own costs and policy in respect to leases and wells with reference to our policy

as to purchase of property when available and whether at reasonable prices.

Q. I will ask you whether as a result of your business experience, which you have just described, whether you

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[fol. 3189] have acquired a knowledge of the market value of gas leaseholds situated in the territory in which the United Fuel Gas Company and the Warfield Natural Gas Company are operating?

A. I think I have. I have in the last year and a half, in connection with these several companies, purchased or acquired property of the value of between seven and seven and one-half million dollars, and that has been based of course upon the studies I have made of the different sections.

Q. I believe you said that within the territory in which you have made these purchases you are acquainted generally with the territory and the property of the United Fuel Gas Company and Warfield Natural Gas Company?

A. Yes, sir.

Q. And especially in all the several pools save and except the Spencer pool and the area of the Warfield Natural Gas

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[fol. 3190] Company in Magoffin County, Kentucky.

A. Yes, sir.

Q. And in addition to the property you already had, you have made purchases within the last year and a half amounting to approximately seven and one-half million dollars?

A. Yes, sir.

Q. I will ask you whether you have knowledge of other sales of developed and undeveloped territory in the same territory in which you are operating?

A. Yes, I have heard of several sales and have had from time to time offered to me property that I didn't take from others. My information as to the price paid is of course second hand. I know what I paid myself.

Q. Are you acquainted in a general way, with the sale by the American Rolling Mills Company of a large boundary of land and gas leaseholds within the Kentucky ter-

767

[fol. 3191] ritory, which sale was made to the Inland Gas Company?

A. Yes, sir, to the Inland Gas Company, now owned by the Kentucky Fuel Company, a boundary of about 88,000 acres.

Q. How long ago was that?

A. It was made in January, 1928; was made in the name of Paul Heingleman and later transferred to a corporation known as the Kentucky Fuel.

Q. Do you recall at this time any other sales within this same general territory?

A. The United Carbon Company sold the boundary which as I recall was approximately 18,000 acres. It may have been somewhat more in Floyd County and partly in Knott County to the Inland Gas Company which in turn sold to the Kentucky Fuel and at the same price correspondingly.

Q. Do you recall any other sales of any large properties?

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[fol. 3192] A. I do not specifically know the prices paid in several other instances. I know of property which was combined in a merger and then financed but I don't know specifically the price paid. For instance, the Cabott interests sold a boundary in Roane County at a price of about $400,000.

Colonel Wallace: We make a motion to exclude that answer; that would be hearsay testimony pure and simple.

Chairman Coffman: Let the motion be recorded.

Judge Rummel:

Q. Mr. Larner, do you have personal knowledge, speaking generally, of the gas territory in which the United Fuel Gas Company and the Warfield Natural Gas Company are conducting their operations and producing natural gas, as to rock pressure, producing sands, product of wells, presence of water in sands and like information?

A. In a general way, yes.

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[fol. 3193] Q. I will ask whether you have been furnished with maps and date generally with respect to the gas leaseholds or gas territory of the United Fuel Gas Company and the Warfield Natural Gas Company?

A. Yes, sir.

Q. Does the data you have examined show the character of the title of these companies to this gas territory and, if so, what is it?

A. It is divided between leasehold and fee.

Q. Have you the data before you so you can state for the record the number of acres these companies own in fee?

A. The amount of territory, as I recall from the data furnished me, in fee was about 30,000 acres out of the total. The total area was 1,600,000 of all classifications and about 30,000 is approximately correct.

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[fol. 3194] Q. I will ask you whether you have examined the lease forms introduced here?

A. I have, previously.

Q. Are these leases under which the company holds most of that territory substantially in the usual and customary form?

A. Yes, sir, I would say they are typical of the industry.

Q. I will ask you to state whether you have examined a detailed list of gas lands owned by the United Fuel Gas Company and Warfield Natural Gas Company as of December 31, 1928, as shown in Exhibits No. 63, 64 and 65?

A. I can't identify them by number but if you refer to these volumes here, I have seen them.

Q. Those are the volumes styled "United Fuel Gas Company, Detailed List of Gas Lands as of December 31, 1928, Vol. 1 and Vol. 2," and Warfield Natural Gas Company as of the same period?

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[fol. 3195] A. Yes, sir.

Q. I will ask you whether this list of gas lands gives you the number of wells, if it is a leasehold, the lessors, the date of the conveyance, the form of grant, the number of acres, the delay rental term, the annual rental terms, the annual gas well royalty, the number of wells operated on each lease, and the consideration paid for such lease?

A. It does, yes, sir.

Q. I will ask you whether you have examined Exhibit No. 68 which is a summary of each and all of the gas wells owned and operated by the United Fuel Gas Company and the Warfield Natural Gas Company as of December 31, 1928?

A. Yes, sir.

Q. I will ask you to examine this exhibit and say whether

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[fol. 3196] the gas wells are classified by counties, and further classified by magisterial districts, in which is set out information as to the number of the well, the land owner, the date of the lease, the term of grant, the number of acres, the date the well was completed, sand formation where gas is produced, the thickness of the sand and the depth of the well?

A. It does except that in this particular exhibit the magisterial district and county are not shown—oh, yes, they are.

Q. I will ask you to state whether in the same summary as to each of these companies there is the further information as to the initial open flow per M cubic feet, its initial rock pressure, its rock pressure in the year 1928, the average line pressure at each well in 1928, and the average first minute rise above line pressure, the tubing volume in cubic feet of each well, and the actual number of days each

773

[fol. 3197] well was used during the year 1928?

A. Yes, sir.

Q. I will ask whether you have examined and studied this summary?

A. Yes, sir.

Q. I will ask whether you have examined Exhibit No. 15 which shows rock pressure and production graphs, and supporting data?

A. For various years.

Q. For certain wells?

A. Yes, sir.

Q. Will you please state whether you have examined Exhibit No. 19 showing the compressor station horse power by years?

A. Yes, sir.

Q. Have you examined Exhibit No. 22, being a graph showing the number of wells drilled and the average initial production for each year from 1918 to 1928?

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[fol. 3198] A. Yes, sir.

Q. Have you examined Exhibit No. 25 which is a graph showing the relation between the number of producing wells and the average investment per well?

A. Yes.

Q. Have you examined Exhibit No. 35 which shows the gas produced by these companies during the years 1924 to 1928?

A. Yes.

Q. Have you examined the Exhibit No. 37 showing the gas purchased by years from 1914 to 1928?

A. Yes.

Q. Have you examined the summary of gas purchase contracts, which I think is Exhibit No. 39?

A. Yes.

Q. I will ask you whether you have examined the maps of the United Fuel Gas Company and the Warfield Natural Gas Company showing the classification of gas lands, which

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[fol. 3199] classification was made by Mr. Ralph E. Davis?

A. Yes.

Q. Are you fully advised as to the basis of the classification of the companies' gas lands as made by Mr. Davis?

A. Yes.

Q. Mr. Davis has testified that he has divided the gas production within this territory into six pools and has named them Spencer pool, Clendennin pool, the Kanawha pool, the Triple-State pool, the Branchland pool, and the Floyd County pool. I will ask whether you have been so advised?

A. Yes, sir.

Q. I will ask you whether you have ascertained the companies' acreage within these certain pools?

A. I have been advised of the number of acres in each pool.

Q. And was that information given to you from certain studies and calculations made by Mr. Ralph E. Davis?

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[fol. 3200] A. Entirely so, as far as I know.

Q. Will you please state for the record the total number of proven Class No. 1 acres these companies own in these several pools?

A. By pools?

Colonel Wallace: We want to make an objection. It has been put in the record once before by another witness and we don't see any reason for cumulating on that.

Judge Rummel: The purpose of this question is to show that the witness is advised and has before him the data as to the number of acres in each pool upon which he intends to place a value.

Chairman Coffman: Is this the acreage testified to by Dr. Davis?

Judge Rummel: Yes, sir.

Chairman Coffman: Very well, go ahead.

The Witness: The Spencer pool, 18,895 acres.

Judge Rummel:

Q. That is class No. 1?

A. Yes, sir.

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[fol. 3201] The Clendennin pool, 135,618 acres; the Kanawha pool, 16,217 acres; the Branchland-Nye pool, 83,579 acres; miscellaneous West Virginia acreage, 2,719; Triple-State pool, 14,190; Floyd County 7,255; Boyd County, 310; Lawrence County, 1,103; Magoffin County, 234; or a total of 280,120 acres.

Q. That is Class 1 acreage?

A. Yes, sir, that is Class 1, of which 260,221 acres are owned by the United Fuel Gas Company and 19,899 acres by the Warfield Natural Gas Company. Class 2, Clendennin Pool is 23,983 acres; Kanawha, 12,298 acres; the Branchland-Nye pool, 29,313 acres; Floyd, Knott and Magoffin Counties, 10,715; miscellaneous areas 1,865; total of 78,174 acres, of which 65,594 is held by the United Fuel Gas Company and 12,580 by the Warfield Natural Gas Company.

Q. Have you the total number of acres in Class No. 3?

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[fol. 3202] A. I have Class 3, 103,650 and Class 4, 41,135,441.

Q. Mr. Larner, have you informed yourself of the situation of the United Fuel Gas Company and Warfield Natural Gas Company with respect to off-set wells and competitive drilling in general in each of these pools?

A. Yes.

Q. I will ask you to state what additional information, if any, could be obtained in addition to the knowledge which

you already have, with respect to the property of these companies, by revisiting the territory or the localities where the territory is operated?

A. In my judgment substantially none, that is to the large value of the property. It may be of course possible to include or inform yourself of condition and maintenance but that is negligible.

Q. That is if you were intending to put value upon the gas wells and gas well equipment and so forth?

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[fol. 3203] A. Yes, sir.

Q. Could there be any additional information given you by going on the property other than the information already furnished?

A. As to the value of the leaseholds and fee property, no.

Q. I will ask whether you could suggest any more certain method of obtaining information with respect to the territory than by the compilation and use of the data furnished you in addition to your own personal knowledge?

A. I know of no way in which that could be supplemented. It is the same method we have used in ascertaining property values and conditions prior to purchase.

Q. And have your purchases been made upon the same character of information and data about which you have been testifying?

A. Yes. In our practice the only question that would arise, we would regard most of the Class 1 and Class 2 as

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[fol. 3204] being substantially the same. In valuing any considerable area we don't distinguish between 1 and 2 in general.

Q. In other words, when you are valuing leaseholds you take the proven acreage which Mr. Davis classifies as Class 1 and Class 2 and consider them as a whole?

A. Yes, sir.

Q. And consider it as one boundary of proven territory?

A. Yes, sir.

Q. I will ask you whether the data and information relating to the gas territory of these companies, in addition to your personal knowledge of the gas fields and gas sands, in which the territory is located, contain all the facts or information you would want, if you were considering the purchase for yourself or for your companies the leaseholds of

the United Fuel Gas Company and Warfield Natural Gas
781
[fol. 3205] Company?

A. It does.

Q. Is there any additional data you could suggest which would be useful in determining the market value of the leaseholds and fee gas lands of the United Fuel Gas Company and Warfield Natural Gas Company?

A. I do not think so. I went over Mr. Davis' maps and classifications with particular reference to Class 1 and 2 and they seemed to me to be very conservative as to boundaries shown within those classes. I think in some cases I would have been tempted to say that the boundary often extended over to No. 3.

Q. There is in your judgment then some acreage in Class 3 which you think should be in Class No. 2?

A. Yes.

Colonel Wallace: We think all this is very objectionable;
782
[fol. 3206] he just repeats what is said to him.

Judge Rummel: I will ask whether you are personally familiar with the market value of gas leases similar in terms to those held by these companies in the fields in which their properties are located?

A. Yes, sir.

Q. And does this knowledge extend both to developed property as well as undeveloped properties?

A. To all classes of property; from wildcat to proven property.

Q. Now, you have already testified as to the property you have purchased in the last year and a half. I believe you stated that the acreage is approximately 150,000 acres and the total consideration is somewhere near seven and one-half million dollars?

A. Between seven and seven and one-half million.

Q. I will ask you to state if there is any other information you may have had showing present market value of leaseholds within this territory?

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[fol. 3207] A. I will say that other than statements I have heard from time to time as to value of property sold which came to me with a few exceptions at second hand, my in-

formation is derived solely from my own purchases or acquisitions or tenders of property made to me.

Q. I will ask you to state, if you know, how the properties which have been purchased by you and by others compare with the proven acreage owned by the United Fuel Gas Company and the Warfield Natural Gas Company in the same field?

A. Taking it by and large I should say that the properties, particularly Davis' classification No. 2 in places like the Clendennin pool were somewhat better than the average.

Q. That is the average of the properties sold?

A. Property actually bought and sold.

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[fol. 3208]. Commissioner Nethken: You are speaking of classification number two or pool number two?

A. I am speaking of classification number two.

Judge Rummel:

Q. State, if you know, whether the terms and conditions of the leases involved in these various transactions compare with the leases of the United Fuel Gas Company and the Warfield Natural Gas Company in the same field?

A. I would say they are substantially similar.

Q. Mr. Larner, I will ask you if the leaseholds and the gas lands and territory of the United Fuel Gas Company and the Warfield Natural Gas Company as of December 31, 1928, were for sale, would there, in your opinion, be a market value for the same?

A. Unquestionably, either as a whole or in parcels.

Q. Why do you say that?

A. The properties are so large and so valuable that,

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[fol. 3209] while they would be worth a great deal of money, yet there would be no difficulty under the circumstances in obtaining a price for the property as a whole, but it would be equally possible if it was subdivided.

Q. From your experience in the natural gas business, and your personal knowledge of the present conditions of these properties, and from the data and records which have been furnished you and which you have studied, and taking into consideration all of the factors and circumstances concerning which you have testified, are you able to express an opinion as to the fair present market value of the gas

leaseholds of the United Fuel Gas Company, between a willing buyer and a willing seller, excluding the value of the wells, well equipment and physical equipment of every kind?

A. I think so.

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[fol. 3210] Q. Are you able to express such an opinion as to the value of the proven acreage Mr. Davis has designated as Classes 1 and 2?

A. Yes, sir.

Q. And can you do that separate from the acreage in Classes 3 and 4?

A. Yes, sir.

Q. Are you prepared to express such an opinion for the proven acreage in Class 1 and Class 2?

A. I have in my consideration of values included both Class 1 and Class 2.

Q. As one class?

A. Yes, sir.

Q. Well, will you, then please state to the Commission your best judgment as to the present market value of the proven Class 1 acreage and the proven Class 2 acreage belonging to the United Fuel Gas Company and the Warfield Natural Gas Company, excluding the wells, well equip-

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[fol. 3211] ment, and all the physical property of every kind for each of the six pools in which such territory is situated?

Mr. Scott: We want to note a formal objection to that question.

(No ruling on the objection.)

The Witness: I believe the property in Classes 1 and 2 is very conservatively worth $125.00 an acre. The property as a whole, I would say, would range between $50,000,000 and $55,000,000, fair value.

Commissioner Nethken: As I understood you, you classified the territory in Class 2 the same as Class 1?

A. I would consider it rather as a whole in buying properties and would say there was so much acreage proven, which portion was developed and partly drilled, and another acreage had a substantial value. That is not always

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[fol. 3212] true as to particular parcels but generally it is not so as between the two. That is the portion number two. Certain expenses for well development are attached to that development. On the other hand the number one class has been partly drilled by previous operations.

Q. Aside from the things you have mentioned, you consider the territory in No. 2 as valuable as No. 1?

A. Substantially so, yes, sir.

Q. And you make no difference in that valuation?

A. No.

Q. And you think the acreage in that would sell for as much as the acreage in No. 2?

A. If you split the two apart and sold it separately, is that your inquiry?

Q. Yes, sir.

A. I think it would take a more careful analysis of the land as to the portion in Class 1 to determine that. In my valuation I have used the same method, which did not

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[fol. 3212a] distinguish between the two classes, therefore I felt I could only apply the same method as I did use myself in this.

Judge Rummel:

Q. In arriving at this value of $125.00 an acre for the proven acreage have you followed the same method you have used during the past several years?

A. Yes, sir, that is a value considerably less than the value at which I actually purchased, in large quantities, these several properties I have mentioned within the last year, and I think the valuations of those properties in Class 1 and Class 2 would be close to $200.00 an acre.

Chairman Coffman: Exclusive of wells?

A. That is striking out of the value of wells, the well equipment, intangibles, pipe lines, so far as they existed, and everything except the leasehold value.

Commissioner Nethken: How much is that per thousand

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[fol. 3213] cubic feet?

A. Per thousand cubic feet, you mean the sale value of the gas?

Q. Your value per thousand cubic feet of the estimated gas in the ground?

A. We don't as a rule use the engineer's estimate of the gas in the ground very much in establishing our own ideas. It is rather based on experience and observation of what properties of certain classifications will produce, rather than an attempt to forecast reserves in the ground. I would say, roughly, applying that method, you get an average of between $175.00 and $200.00 an acre for that.

Q. You didn't consider the amount of gas in the ground in arriving at your estimate?

A. Not in that same way, no sir.

Judge Rummel:

Q. Will you please express your opinion as to the [redacted]ket

[fol. 3214] value of the acres included within Class [redacted]91 No. 3?

Mr. Scott: We desire to note the same objection.

(No ruling on the objection.)

A. Class No. 3 and Class No. 4, I have used our own method of valuing properties for such. We include those generally at $5.00 an acre, both classifications. In considering the size acreage held, 1,239,091 for both, I would regard the total of 3 and 4 as worth $5,000,000.

Judge Rummel:

Q. That would give a total of what amount for all of the leaseholds and certain gas lands of the United Fuel Gas Company and the Warfield Natural Gas Company in Classes 1, 2, 3 and 4?

A. I would like to answer that as between $55,000,000 and $60,000,000. I do not believe it possible to get anything but a value or an average for the acreage, the prop-

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[fol. 3215] erty is so large, and it would be applied and appraised on a fair market value.

Q. Mr. Larner, what do you mean or what are we to understand by the expression "present market value"?

A. I mean the value which could be readily realized on the properties, cash, within a reasonable period of time.

Q. And is there such a market at this time for the prop-

erties of the United Fuel Gas Company and the Warfield Natural Gas Company?

A. In my opinion, yes, sir. I believe at the price I have indicated you could make a sale of these properties within a short period of time, a matter of a few weeks.

Q. Will you please tell us, if you know, what is the present demand for gas leaseholds within this territory?

A. It is very active. We are constantly trying to enlarge our own operations, and are constantly seeking leases

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[fol. 3216] and properties. We find that there is a good deal of competition, both between the larger companies in business and a great many smaller companies besides, seeking to bring industries in to the state, and it has been quite difficult for the last few years to get properties at a desirable price.

Q. Did you include anything in your valuation on account of the oil rights, included in the leasehold estates or covered by the leasehold estates of the United Fuel Gas Company and the Warfield Natural Gas Company?

A. I did not.

Q. I will ask you whether, in giving these estimates of value, you have considered the present state of exhaustion of the properties, and the conditions and obligations of the leases generally?

A. I have, yes, sir.

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[fol. 3217] Q. And would the purchaser be willing to assume the obligations and conditions of these leases?

A. Yes, sir.

Q. What have you to say as to whether the values you have given would apply as of December 31, 1928?

A. I understand these various reports and data were all made as of that date. There have been no changes between December last and this time of a substantial character in values; there has been no depression in the market, and the values which I have given I would be very glad to pay myself for similar properties.

Q. From your experience in the natural gas business and your knowledge of the business of the United Fuel Gas Company and the Warfield Natural Gas Company, including the undeveloped acreage held by them, are you able

to express an opinion as to whether the acreage classed as
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[fol. 3218] Class 3 and Class 4 of these companies is large or small?

A. I believe it to be moderate. The companies with which I am concerned carry approximately four acres in classes 3 and 4 to one acre in Classes 1 and 2. They are, however, with the exception of the gas delivered at Huntington, entirely reduced, and not delivering directly to consumers and, while I don't think I am competent to pass upon the problems of the pipe line companies serving a wide market, I would rather be well satisfied that a pipe line need to retain a larger portion of a reserve acreage than a producer.

Q. And that is because of the larger investment in transmission lines and in compressors needed to carry gas through the lines to the point of distribution?

A. Yes, sir.

Q. I believe you say you have no general transmission
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[fol. 3219] lines and only two short pipe lines.

A. Two short pipe lines.

Q. What would you say would be the effect upon the service of these companies if they should dispose of all their acreage in Classes 3 and 4?

Colonel Wallace: That question is objected to. The gentleman says he has had no experience in transportation lines.

The Witness: I am qualified, if I may say so, in part, as to that. I think I know what would happen to the West Virginia Gas Corporation if it abandoned its pipe lines serving its industrial consumers, it would be destructive, nor could the consumers continue their contract under the condition, and it would reduce and wipe out their gas supply.

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[fol. 3220] Colonel Wallace: We still insist that a witness representing a company, serving Huntington, with a line fourteen or fifteen miles long, would not be competent to answer that question.

Chairman Coffman: As I follow the question, it was the effect upon the service.

Judge Rummel: Yes, sir.

Chairman Coffman: Is the witness familiar with the gas distribution?

Judge Rummel: The question is this: What would be the effect upon the service to the consumers if the Company dispose of the acreage in Class- 3 and 4?

Colonel Wallace: We still object.

Judge Ritz: A good many thing- proven in these cases, the tribunal know- much better than the witness, but while the court may know them they can't assume that they do know them.

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[fol. 3221] Judge Rummel:

Q. Go ahead, Mr. Larner.

A. I believe the abandonment of the acreage would be destructive and would eventually interfere with deliveries to domestic and industrial consumers.

Q. What is your best judgment as to what would happen with the one million or more acres in Classes 3 and 4, in the event the United Fuel Gas Company and the Warfield Natural Gas Company would surrender the same?

A. That acreage would be immediately taken up by some of the independent operators or possibly competitors.

Q. And when the reserves of the company were approaching exhaustion, what is your opinion as to the condition these companies would find themselves in?

Mr. Scott: That question is objected to.

(No ruling on the objection.)

The Witness: That is the United Fuel Gas Company and the Warfield Natural Gas Company, they could not recapture

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[fol. 3222] those properties, unless they were paying a very high price of purchase. I would say, generally speaking, it would be an impossibility.

Q. What would be the alternative to going out and purchasing at high priced either proven or productive acreage?

A. It would be to go out of business.

Q. Or purchasing gas?

A. Or purchasing gas and, again, that would be a problem as to the amount that could be purchased.

Chairman Coffman: All of this, in my opinion, is pretty far in the future.

Judge Rummel: Perhaps so, your Honor. We must have this acreage as a reserve for our consumers.

Commissioner Nethken: Is it the opinion that this gas company could sell its gas supply, and continue to operate as a gas company?

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[fol. 3223] Judge Rummel: We think this acreage could be sold before Saturday night, Judge, at a price higher than the value fixed by the witness.

Judge Rummel:

Q. Mr. Larner, I would like for you, in view of Commissioner Nethken's question, to express your own opinion, as to whether you or your company would be in the market for the whole or part of the acreage in Classes 3 and 4?

Commissioner Nethken: The only reason for asking that question, is the fact it seemed to me we were dealing with a question as to whether or not these people should sell their gas leases independent of their plant, what they would be worth, and if they could *could* do that it would seem to me the question might hardly be proper. Of course, as suggested by counsel, it is a legal question. I wasn't directing the question to the witness.

Judge Rummel: Well, I will withdraw the last question propounded by the witness. I think that is all.

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[fol. 3224] Cross-examination:

Colonel Wallace: Just one question and then we will defer further cross-examination to a future time. How long have you been in making this study?

A. I have spent a considerable part of a week in going over the data.

Q. One week?

A. Yes, sir.

Q. Has it been a labor of love or are you employed by the United Fuel Gas Company?

A. I am employed by the United Fuel Gas Company, and am not a party in interest in any way.

Q. But you came down here from New York to testify?

A. Yes, sir.

Q. And one of your companies is a customer of the United Fuel Gas Company?

A. Yes, sir.

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[fol. 3225] Q. And the West Virginia Gas Company buys gas as willing as a whole customer from the United Fuel Gas Company?

A. The West Virginia Gas Company buys gas but does not sell to the United Fuel Gas Company, so far as I know.

Q. In this exhibit we have the summary made May 1st, 1929, page 5, they show among the companies supplied by the United Fuel Gas Company, appears the name of the West Virginia Gas Corporation. Is that the name of your company?

A. That is it but I know of no purchase of gas made by it. It could not have been a very large volume, because there is no contract relation for the purchase of gas.

Q. Do you buy or sell any of the Columbia Gas & Electric Company group, besides the United Fuel Gas Company?

A. I think, perhaps, there is a small portion goes to the Columbia Gas & Electric.

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[fol. 3226] Judge Ritz: That company is out of business now?

A. Yes, sir.

Commissioner Nethken:

Q. What company sells gas to the Internation- Nic-le Company and the Owens Bottle Company?

A. The West Virginia Gas Corporation. They also have a contract, that is, the International Nickle Company, has a contract with the Huntington Development and Gas Co., and also I understand a contract with the Inland Gas Company, which recently built a pipe line in from Kenova.

Q. What connection do you have with that company?

A. I am vice president, also own the controlling interest in the stock.

Q. Is that the company for which you bought these leaseholds for seven and a half million dollars?

A. No, the company for which I made the purchases has been the Hamilton Gas Company. Of the seven and a half

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[fol. 3227] million dollars, four million was paid for properties with which our company is not concerned.

Q. You mean to say you actually paid seven and a half million dollars for this property?

A. I have just explained, we have paid out in dollars approximately four million dollars for properties, none of which concerned the West Virginia Gas Corporation. In buying the West Virginia Gas Corporation we made a purchase of that company, and in the value we took into consideration its previous and other indebtedness.

Q. You determined your value of this property at seven and a half million dollars?

A. No, sir. The West Virginia Gas Corporation has not purchased any properties. I purchased the controlling interest in the West Virginia Gas Corporation, and in doing so, determined so well as I could, the value of its properties

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[fol. 3228] and that valuation becomes a portion of the total value of seven and a half million dollars, which I have stated I have been concerned in; the remaining four millions dollars I bought properties for gas purposes.

Q. Where does this West Virginia Gas Corporation get the gas it sells?

A. It produces it from its properties in Cabell County; it purchases, I believe, approximately one and a half million feet a day from other small producers in that section.

Colonel Wallace:

Q. While we are on that subject, you say the West Virginia Gas Corporation purchases a million and a half feet a day from other producers?

A. Yes, sir.

Q. What do they pay for it?

A. About 12 cents, I think.

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[fol. 3229] Judge Rummel: That is not a proper question. We would not be permitted to use the company's sale price as a basis for the evaluation of its leaseholds. So far as the company is concerned, we have no objections to the question if it will prove anything, but the witness, I understand, objects to giving it. It is of a private nature.

Chairman Coffman: The Commission understands that

and, for the present, the question may be waived, unless the witness desires to answer.

Colonel Wallace: It has been in this case before.

The Witness: I have endeavored to explain and answer your question. I am not a party interested. I am not affected by this. My testimony has not been influenced by any questions of that character.

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[fol. 3230] Q. You were asked about the data furnished by the United Fuel Gas Company and Warfield Natural Gas Company. I would like to ask if you could have taken the data furnished you and set down and classified that acreage without the assistance of an engineer?

A. I think I could have approximated it in most cases. I would not undertake to do so in a matter of this kind.

Q. As a matter of fact, you went over some of the leases, perhaps, and looked at the data, but you accepted the classification of Mr. Davis?

A. Yes, sir, I looked at the classification No. 1 and 2 with particular care. I was accustomed to that type of classi-

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[fol. 3231] fication because I had used Mr. Davis and other engineers and had used the same method.

Q. What was the basis of Davis' classification of that property?

A. The classification as to No. 1 territory was the developed portion of the territory. No. 2, I am not attempting to repeat his language, No. 2 was the adjacent portion of territory, in some cases with wells on it, and in other cases with production on property surrounding it, and my judgment in the first place as I expressed it in direct testimony I merged the property in No. 1 and No. 2 together and in my judgment the classification of Mr. Davis as to No. 2 was rather conservative, had I been making the same classification.

Q. I will ask how many acres of territory do you regard a well as proving or developing?

A. It depends to a considerable extent on the sand, the

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[fol. 3232] sand porosity, the thickness of the formation.

Q. Well, we will take the Roane County field. How much acreage would you say was proven in that field in the sands in which the United Fuel operates?

A. Now, do you ask that in this sense: If you take a well in a certain acreage and circumscribe it with a circle, how many acres would be included in the circle as to that particular well?

Q. I am asking you as an oil or gas well expert what one well proves to you in the Roane County field?

A. It would be impossible to answer that unless you take the Roane County field as a whole because one well may drain 100 acres or 400 and you may regard that as proven but there may be one well or wells so located that you can reasonably regard all territory between those wells as proven, so it is impossible to put it on a one well basis.

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[fol. 3233] Q. What I would like to get is, how many proven acres do you regard the United Fuel Gas Company as having in the Roane County field?

A. I don't recall but whatever I said in my appraisal was the number of Class- 1 and 2 in Roane County.

Q. Taken from Mr. Davis' report?

A. Yes, sir, I accepted that report.

Q. Now, in the No. 2 acreage you said you thought Mr. Davis was conservative?

A. Yes, sir.

Q. If you haven't any idea of how many producing wells they have and will not give the number of acres, how can you say that?

A. By an examination of the maps and by the same way I made my own appraisals.

Q. How can you tell us how many acres there are in No. 2 territory if you don't know about the acres that will be

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[fol. 3234] proven by a well?

A. It is a matter of common sense and experience. You take a map of a particular property and examine the number of producing wells and look at their record, the adjacent territory, the trend of the sand, and then you make up your mind as to what that particular territory is worth and how much can be conservatively regarded as proven.

Q. Did the United Fuel Gas Company have any No. 2 acreage in Roane County?

A. I do not recall. I am not attempting to charge my memory with things I was familiar with three or four weeks ago.

Q. Do you know on yesterday Mr. Davis testified he had changed the classification of certain property as compared with his classification of four years ago, of the same property?

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[fol. 3235] A. I was not here and I do not know it.

Q. If that is a fact, how would it affect your answer?

A. In an interval of three or four years actual test may make changes in any appraisal.

Q. So it is not a matter of common sense, it is a matter of classification?

A. No, sir, you know that in a large property competent engineers don't go far wrong. You can go into any territory and find a dry hole.

Q. Are you relying upon common sense, engineers, or your own judgment?

A. On my own judgment largely, accepting the boundary of these engineers and classifications.

Q. You were asked if you had personal knowledge of the gas territory in which the United Fuel Gas Company and the Warfield Natural Gas Company were conducting their

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[fol. 3236] operations and producing gas and about the rock pressure and producing sands, production of wells, presence of water, and like information, and you were also asked if you could furnish maps and date giving information with respect to the gas leaseholds and gas territory of the United Fuel Gas Company and after answering that you proceeded to give your opinion. My question is; would you personally with that date have attempted to classify that acreage without the assistance of a competent engineer or geologist? Please answer that direct.

A. Well, I would not undertake the function of an engineer, if that is what you want to find out. I am not an engineer.

Q. You were also asked if you had examined the lease forms and you said you had, and were asked, are these leases under which this company holds most of its ter-

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[fol. 3237] ritory. Which type of the standard of the United Fuel Gas Company did you refer to?

A. I examined the general forms of lease.

Q. What do you mean by that?

A. I mean the average forms of lease; there are different terms and substantially they were the ordinary lease.

Q. The terms were different and put them under different classifications?

A. Yes, sir.

Q. Which classification did you take as typical of the industry?

A. I haven't any idea. It was an examination of the various forms. There were no material differences in any of them.

Q. After being asked in great detail about your study of the data by you submitted, you were asked if you examined

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[fol. 3238] Exhibit No. 19 showing compressor station horsepower. Do you have any knowledge of compressor stations or horsepower?

A. Not from an engineering standpoint. I was asked if I examined them and I said I had.

Q. I was wondering if that affected your judgment?

A. In this matter I didn't include any examination of equipment; I excluded it from my mind.

Q. I was also wondering why you examined them, these compressor stations?

A. They were part of the general Exhibits and I looked at them.

Q. And that is about what you did with the balance, isn't it?

A. No, and you know it.

Q. No, I don't know it, I am asking you. You were asked if you would state how the property that had been purchased by you compared with the proven acreage owned

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[fol. 3239] by the United Fuel Gas Company and the Warfield Natural Gas Company in the same field and you answered that taking it by and large the company, has property, particularly Davis' classification No. 2, somewhat better than the average. How many acres of the property or leases of the companies controlled by you do you regard as developed by a single well?

A. I again repeat that there is no rule of thumb measurement on that.

Q. How have you arrived at the classification of the acres owned by the companies in which you are interested into Classes 1, 2, 3, and 4, if you have no rule of thumb?

A. That is not based upon the amount of territory developed by a single well.

Q. Well, collectively?

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[fol. 3240] A. That is taking the same type of classification and segregation of the developed property and portion adjacent to it, as a rule but not always, which can be regarded proven either by some wells located on it, not completely developed but adjacent, and the general gas trend, which is the best guide and the only guide that can be furnished.

Q. Well, if you have no idea as to the territory developed——

A. I have a very definite idea.

Q. If you have no idea as to how much a single well develops, how can you figure a number of wells can develop a particular territory?

A. By their relation to each other.

Q. Then, as I understand, these wells have got to outline a pool and show a development that way?

A. Sometimes but not always; there may be wells located in the center of a pool.

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[fol. 3241] Q. But if you put your wells around the flanks you have no idea how far beyond that the well develops?

A. In relation to the structures you may be able to approximate well defined boundaries beyond the outermost wells. That would depend largely on the sands, record of production, etc., if there be any in that territory.

Q. Before we go into this class termed wildcat territory, what would you say would be developed by a well there?

A. The same principle would apply in a general way but more limited with the turning of wildcat into production. One well alone might prove 100 acres or 400 depending upon what information you can get. We had a property in Nicholas County where the entire field was proven by one well to 400 acres.

Q. Do you think that is a fair average?

A. It is impossible to apply that to a large territory like this.

Q. You were asked after going over these properties and [fol. 3242] in some detail as to what you had in mind, the

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question was, I will ask you whether in giving these estimates of value you have considered the present state of exhaustion, and your reply was yes. Now I want to ask, in fixing that value, did you consider the obligation of this property to public service?

A. No, I did not, as I said before in this testimony. I would have diminished the value for property necessarily tributary to Charleston and Huntington.

Q. I don't know as I get that.

A. I mean this: For instance were I given the gas territories and pipe lines and the meter system, distribution system, and asked to furnish gas at 21 or 22 cents after absorbing those distribution charges, I would almost doubt the wisdom of taking the property. They are destructive.

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[fol. 3243] Q. Let's see if I understand you, Mr. Larner. In fixing that value on those leases, as I understand you, you did not take into account the obligation of that property to the public service?

A. As I remember that question, I said the obligation of the lessor, but that is not the obligation of the lessee.

Q. I am asking now if you have taken into your estimate of value the property itself which has been delegated to the public use?

A. No, I took only the value of the property, on what I regard as a conservative basis, which it would bring in a fair market. That, I understand, was the purpose of the question as to value and whether there was a market.

Q. Mr. Larner, have you any knowledge of the production per acre from the various sands in which the United Fuel

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[fol. 3244] Gas Company produces gas in the several fields?

A. You mean past production?

Q. I mean the present average production per acre as of December 31, 1928?

A. For their entire holdings, not per well?

A. No, I mean what is the average production in the Roane County field, say?

A. No, I don't recall that. I looked at those records to see what conditions they reflected in general but I didn't attempt to take particular fields into my memory.

Q. Do you know of your own knowledge of the production per acre in the Clendennin field in 1928?

A. No, sir, I don't remember.

Q. Do you make the same answer as to the Kenawha and Branchland fields?

A. Yes, sir. When I testified before they were fresh in
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[fol. 3245] my memory.

Q. And have you any knowledge of any one of those fields for the year 1928?

A. No, sir.

Q. Did you ever have that knowledge?

A. No, there was no other source from which it was available.

Q. I was asking about these different pools.

A. I have in a general way knowledge of them by talking with experts and our own operations but I don't know the production of any field from my own knowledge or otherwise.

Q. Did you have any knowledge of the production, average production in the Roane County fields or of any group of wells there?

A. I have been discussing the Roane County field at different times. We have had property offered to us and made examinations there.
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[fol. 3246] Q. I am speaking as of December 31, 1928. Did you have that information then?

A. That would have all been gathered during 1927 and 1928.

Q. Can you tell us now what the average production per acre in the Roane County field was during 1928?

A. No, sir.

Q. And you haven't that information about any well or group of wells in the sands in which the United Fuel Gas Company produces its gas in that field?

A. I had that information as furnished by the United Fuel Gas Company's engineer. I accepted his integrity because I used him before.

Q. You made the statement that information, plus your present knowledge, was the basis of your opinion, did you not?

A. Yes, sir, you don't sit down, Mr. Wallace, before a map and takes it that way. Nobody from a practical stand
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[fol. 3247] point sits down and attempts to buy a very large property on a basis of the most careful men. He goes over the territory, applies his accumulated knowledge, which may not be very specific. I forget those things unless I look them up. Then he establishes what in his mind is a fair price and what he is willing to pay. Now, in the appraisal for the United Fuel Gas Company I used exactly the same method that I did use in determining whether I would or would not purchase certain property and on the basis of which I actually did purchase certain property. I used the same classification made by Mr. Davis himself, using the same principles and I figured stripped of intangibles and pipe lines it averaged about $200 an acre. I cut that to $125 an acre, and I believe that the figure I gave was much

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[fol. 3248] less than the property was worth. I would be very glad to buy it at the figure I quoted and would pay a considerable option on it. Further I would accept Davis' report and I would accept the United Fuel's figures as to well production etc., even though the sum involved is sixty million dollars.

Q. When you figure on buying it, then it becomes a question of judgment?

A. It is sort of a sixth sense.

Q. When you got to buy something, if you were offered a lot of acreage in the Branchland field, you would take into account you- knowledge of the market and the probability of turning it over, and you would take into consideration the price at which you could sell your product?

A. Yes, sir.

Q. And that would be an element of value?

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[fol. 3249] A. Yes, sir, if I bought the Sahara it wouldn't be of value unless I could sell it.

Q. And if it wasn't for the transportation companies being in there that land would be worthless?

A. Unless it could be developed.

Q. Now, you take the Branchland field, you have been operating there some years, I take it?

A. What counties in that field are you talking about?

Judge Ritz: That field lies in Lincoln, Cabell and some in Wayne.

A. I don't think it would extend to Wayne.

Colonel Wallace:

Q. Do you know anything about the gas production per acre in that field?

A. Mr. Wallace, I don't make any estimate of the gas production per acre in any field. I know in a general way the location of the field. I know what may be expected with respect to the continuity of sand, and what may be

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[fol. 3250] expected or proven territory and I base my idea of value on that. Down in Lincoln County you will find wells drilled back in 1907. I have not attempted to compute the amount of gas taken out since that date.

Q. Do you know what they were producing per acre in any well or group of wells for 1928?

A. No, sir, I paid no attention to it because to give that any importance you would have to be sure that the wells drained all the territory. One well in 500 acres would not demonstrate what gas was in that acreage, it might and it might not.

Q. Mr. Larner, turning to page 802 of your cross-examination at the top of the page, "The West Virginia Gas Company buys gas but does not sell to the United Fuel Gas Company, as far as I know." I take it that is subject to modification?

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[fol. 3251] A. That should be corrected. The West Virginia Gas Company purchases a small amount of gas but does not purchase any from the United Fuel Gas Company, as far as I know.

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[fol. 3252] Q. What I asked you was this, in substance: I says, then in fixing your value you have taken into consideration the price that you might buy gas properties for, and the price that you can turn it over for in the immediate future, either sell it outright or sell its product?

A. Naturally I am going to look to the possible income, in my judgment, from the property. It would have no value otherwise. I do not buy properties for resale; I am not interested in purchasing for resale, not interested in financing.

Q. You don't hope to buy them just to hold them?
A. I buy them to hold and operate.
Q. And you sell the product at the best price you can obtain?
A. Yes, sir.

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[fols. 3253 & 3254] From Co. Ex. 102—United Fuel, 1928, Case

Thereupon came A. B. DALLY, JR., a witness of lawful age, introduced on behalf of the respondent, who being first duly sworn, testified as follows:

Direct examination.

By Judge Rummel:

A. Where do you live, Mr. Dally?

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[fol. 3255] A. Pittsburgh, Pa.
Q. What is your business?
A. The natural gas and oil business.
Q. With what interests or companies are you identified?
A. You want the companies or the interests?
Q. Both.
A. I am connected with the Senedum-Trees interests or their activities; I am president of the Penn-Ohio Gas Company; president of the South Hills Oil & Gas Company; director in the Arkansas Natural Gas Company or Corporation; director in the Arkansas Fuel, Oil Company; vice president and director in the Big Lake Oil Company, which conducts a gas business; also I am a director of the Plymouth Oil Company; I am connected in an active capacity with some other Benedum-Trees companies and operations in Pennsylvania and West Virginia.
Q. Benedum and Trees, is that a firm of Mr. Benedum

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[fol. 3256] and Mr. Trees?
A. Yes, sir, partners.
Q. Former West Virginians?
A. Yes, sir.
Q. Where are their headquarters?
A. Pittsburgh, Pa.

Q. I will ask you whether these interests have been identified with the natural gas industry in West Virginia and, if so, for how many years?

A. I can't say to what extent Benedum-Trees have been interested or connected with the gas industry in West Virginia, because I only joined their forces about two or three years ago, but we have drilled for gas in this state and elsewhere under those interests.

Q. Now, Mr. Dally, will you please state briefly what your training and experience has been in the natural gas business?

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[fol. 3257] A. My experience dates back over thirty-five years, in all the various phases of the production, transportation and sale of natural gas, covering that period of time. During that period of time I had charge of the field operations of the Manufacturers Light and Heat Company; the earlier company was the Wheeling Natural Gas Company, organized about 1890, close to that period, and my connection with it was in the field taking up lands, drilling of wells, laying of pipe lines, as well as distributing to industrial concerns, and to some city domestic business. That business, from an early start in the natural gas business, grew to pretty large proportions. When I left the Manufacturers Light & Heat Company to change my connections, they were delivering about 42 billion feet per year. That was all classes of business.

Q. How much of that was in West Virginia or can you approximate it?

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[fol. 3258] A. There was three-fourths of it from West Virginia.

Q. From what areas?

A. The development work in this state covered all the eastern counties, from Hancock south to Lincoln County; eastward to Marshall and Tyler Counties, Taylor, including Harrison, Doddridge, Ritchie, Marion, Lewis, Braxton, Gilmer, and I might name other counties, but it was in all the developed areas in which gas has been found in the upper portion of the state, down to Lincoln County.

Judge Rummel: Now, go ahead, Mr. Dally, and tell of your activities since you left the Manufacturers Light & Heat Company.

A. Following that?

Q. Yes, sir.

A. We still maintain a certain amount of business in this state, also in the adjoining state of Ohio and Pennsylvania, but the activity in the gas business is the reason

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[fol. 3259] I made the change and went west of the Mississippi River, and southwest in this country, into Arkansas, Oklahoma, Kansas, Texas, Louisiana. That also took in some operations in Illinois and Indiana, east of the Mississippi River.

Q. I believe you say that in these activities in connection with these several companies and interest, you have taken up leases for oil and gas?

A. We have leased large areas of oil and gas lands, or prospective oil and gas lands, and when I had charge of the land department that came under my jurisdiction. After I was made field manager we carried something like 630,000 or 640,000 acres in that.

Q. And how many years ago was that?

A. I don't just recall now.

Q. What experience have you had in the purchasing of

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[fol. 3260] gas territory in any connection with any of the companies you have been interested in?

A. Well, our investigation was along the lines followed by the oil and gas business generally, as it is at present, and we would, back in the earlier days we had geologists; we quite often took up tracts on account of our size, the large size and areas, and drilled test wells on them, and felt our way out, in this state particularly, before there was much development. Since that time we follow the recommendations after examination, and have practical men who go over the area. We keep posted on what other companies are doing developing work, the drilling of test wells by other parties, as well as our own and, based on that, we take up land and are doing so today.

Q. Mr. Dally, do you have a general knowledge of the

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[fol. 3261] Appalachian gas fields in West Virginia and Kentucky?

A. I believe I do.

Q. And up to the time you went west was your experience largely confined to the Appalachian field?

A. Yes, sir, extending up to New York, and we had developments extending into Pennsylvania and West Virginia and Eastern Kentucky, and we were familiar with all the eastern fields in the Appalachian system.

Q. Are you familiar with the general locations of the gas properties of the United Fuel Gas Company and the Warfield Natural Gas Company?

A. I am, generally speaking.

Q. And are these properties located within the Appalachian field?

A. They are.

Q. And are they within the general boundaries of the territory which you are acquainted with and where you

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[fol. 3262] have had experience, both when you were connected with the Manufacturers Company as well as the Benedum-Trees companies?

A. Not only within those areas, but they are within the best areas we could pick out in those areas.

Q. Are you acquainted with a number of the other larger companies operating within this same general territory?

A. I am.

Q. Will you please state what some of them are?

A. Well, this company and its subsidiary, the Columbia Gas & Electric I believe is a part of this; the South Penn Oil Company; the local companies in and around Huntington, and some smaller places up the Ohio River; the Natural Gas Company of West Virginia; the Hope Natural Gas Company. I believe that is about all. The Philadelphia Company's subsidiary down here—the Equitable Gas Company subsidiary.

Q. The Pittsburgh & West Virginia Gas Company?

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[fol. 3263] A. Yes, sir.

Q. During all of your experience and activities in West Virginia have you acquired knowledge as to the continuity of the producing sands through the territory which the United Fuel Gas Company and the Warfield Natural Gas Company are operating?

A. I have.

Q. Suppose you tell us some of the sands producing natural gas within this territory?

A. Well, this territory and other parts of West Virginia not involved here, takes in the Salt sand, the Big Lime,

the Maxton, the Keener, the Big Injun, the Squaw sand, the Weir, the Berea, the Gantz, the Gordon Stray, the Gordon sand, the Fourth sand, the Fifth sand; in several counties what is known as the Sixth, which is not found generally, and in the vicinity of Barbour and the eastern part of Harrison counties the Speachley sand.

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[fol. 3264] Q. Mr. Dally, within the territory where you find the property of the United Fuel Gas Company and the Warfield Natural Gas Company what sands are the more productive of natural gas?

A. The two great sands covered by this company's territory are the Big Injun series and the Berea. I would call those the two most important sands they have in their territory.

Q. Both as to production and as to life?

A. Yes, sir, and as to life and thickness. That same Injun sand has a familiar history in Northern West Virginia, out of this territory, a long life, productivity, in areas of oil and gas.

Q. In your business experience with the companies to which you have testified, have you acquired a knowledge of the market value of gas leaseholds in the territory which the United Fuel Gas Company and the Warfield Natural Gas Company are operating?

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[fol. 3265] A. I have.

Q. And have you knowledge of sales of gas leaseholds within the territory where these two companies are operating?

A. I have a general knowledge of those things.

Q. I will ask you whether you have been furnished with maps and data general with respect to the natural gas properties of the United Fuel Gas Company and the Warfield Natural Gas Company?

A. I have.

Q. Have you examined and studied this data and these maps?

A. I have given them considerable study.

Q. Does the data you have examined show the character of the title of these companies to the gas territory?

A. It does.

Q. And what is the character of the title?

A. Outside of possible 48,000 or 49,000 acres it is leasehold title, gas leases.

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[fol. 3266] Q. Have you been furnished with copies of the typical forms of leases which are held by the United Fuel Gas Company and the Warfield Natural Gas Company in securing their leasehold estates?

A. Yes, sir, I have.

Q. Are the leases under which the companies hold most of their territory the usual or customary form of lease?

A. Yes, sir.

Q. Have you been furnished and have you examined the detailed list of gas lands owned by the United Fuel Gas Company and the Warfield Natural Gas Company as of December 31, 1928?

A. I have.

Q. I will ask you whether this list of gas lands gives you the number of wells, if it is a leasehold, the lessors, the date of the grant, the form of grant, the number of acres, the delay rental term, the annual rental terms, the annual

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[fol. 3267] gas well royalty, the number of wells operated on each lease, and the considerations paid for the leases?

A. Yes, sir, the records I have examined have all that information.

Q. I will ask you whether you have been furnished with a summary of the gas wells owned by the United Fuel Gas Company and the Warfield Natural Gas Company as of December 31, 1928, classified by counties, and further classified by magisterial districts, in which is set out information as to the number of the well, the land owner, the date of the lease, the term of grant, the number of acres, the date the well was completed, sand formation where gas is produced, the thickness of the sand, and the depth of the well?

A. I have been furnished with all that information and have examined it carefully.

Q. And I will ask you, from your long experience in the

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[fol. 3268] natural gas business, as well as the oil business, whether that information is complete, and does it contain all the information possible to have concerning these subjects?

A. The information is very complete. I wouldn't be able to suggest anything to add to it.

Q. I will also ask you whether in the same summary as to each well of these companies, there is the further information as to the initial open flow per M cu. ft., its initial rock pressure, its rock pressure in the year 1928, the average line pressure at each well in 1928, and the average first minute rise above line pressure, the tubing volume in cubic feet of each well, and the actual number of days each well was used during the year 1928?

A. I have examined that, yes, sir. It is all in the records I saw.

Q. Have you been furnished a statement as to the total

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[fol. 3269] number of active wells, the total number of days these wells were used during the year 1928, the total calculated production for the year 1928, the total corrected production for the year, the average calculated daily production for the year, and the annual calculated capacity if used for the time of 266 days?

A. I have.

Q. I will ask you if you have examined Exhibit No. 15, which shows the rock pressure production graphs and supporting data?

A. I have.

(Reporter Cain here relieved Reporter Stanard.)

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[fol. 3270] Q. Mr. Dally, have you examined Exhibit No. 19 showing the compressor station horse power by years?

A. I have.

Q. Have you Exhibit No. 22, being a graph showing the number of wells drilled and the average initial production for each year from 1918 to 1928?

A. I have.

Q. Have you examined Exhibit No. 25 which is a graph showing the relation between the number of producing wells and the average investment per well?

A. I have.

Q. Have you examined Exhibit No. 35 which shows the gas produced by these companies during the years 1924 to 1928?

A. I have.

Q. Have you examined Exhibit No. 37 showing the gas purchased by years from 1914 to 1928?

A. I have.

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[fol. 3271] Q. Have you examined the summary of gas purchase contracts?

A. Yes, I remember that. I couldn't identify it by the description. That is the contracts under which they purchase gas in the fields?

Q. Yes.

A. I have.

Q. Have you examined Exhibits 44 and 45 setting out certain producing well data for each year since 1914?

A. I have.

Q. I will ask you whether you have examined the maps of the United Fuel Gas Company and the Warfield Natural Gas Company showing the classification of gas lands, which classification was made by Mr. Ralph E. Davis?

A. I have gone over that a number of times.

Q. Are you fully advised as to the basis of the classification of the companies' gas lands as made by Mr. Davis?

A. I believe I am.

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[fol. 3272] Q. You have stated that you have examined Exhibit No. 15 with reference to rock pressure graphs and other supporting data. I will ask you whether you have informed yourself as to the number of acres in each class of 1, 2, 3 and 4 in each of the six major pools and the several miscellaneous pools in which these companies operate?

A. I have.

Q. Have you informed yourself as to the situation of these companies with respect to offset wells and competitive drilling in general in each of these pools?

A. I have.

Q. Will you state what additional information, if any, could be obtained in addition to the knowledge which you already have, with respect to the property of these companies by visiting the territory or the localities where the territory is operated?

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[fol. 3273] A. I don't know of anything I could ask or obtain by going on the ground. In the gas business and in the interests I am connected with we buy a great deal of

land with which we are acquainted but never see unless we have time to visit. It isn't necessary and the supporting data we had to examine of these lands would give me all the information, and more than I could get on the ground itself.

Q. About the only thing you could do on the ground would be to check the data contained here?

A. There would be the location of the wells, and you would have to take an engineer to get the distances. I assume this is all correct and you wouldn't gain anything else in my opinion.

Q. Can you suggest any more certain method of obtaining information with respect to the territory than by the compilation and use of the data furnished you in addition to your own personal knowledge?

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[fol. 3274] A. I can not. As I said a while ago, this is very complete and most every question is answered in these records and reports.

Q. Suppose you were ordered to go out with a view of valuing these leaseholds for yourself or your company, would the data and information, in addition to your personal knowledge of the gas fields be sufficient from which you could form an opinion and judgment as to the value of the leaseholds?

A. I feel it would be sufficient. In the other phase of this business, the oil business, after all this is done, they go out on the ground to ask for the pipe line rates of the properties, which is these records here, to substantiate their opinion, I think that is the same way I would in this business.

Q. Are you personally familiar with sales in the fields in which these properties are located?

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[fol. 3275] A. I believe I am.

Q. Does that knowledge extend to both developed or proven acreage and acreage such as is put into Class 3 and 4?

A. Yes, sir, from the developed to prospective, we call it.

Q. I understood you to testify a few moments ago that you had information or general knowledge of actual sales of gas leases in this part of West Virginia. Can you give

us a statement as to any particular sales within this territory?

A. Well, from memory, there was one of those large sales made by the American Rolling Mill Company at Ashland where a lot of their territory extends south from the river about 67,000 acres. There was another sale to the Hamilton Gas Company. I can't just recall the other names.

Q. I will ask whether you have yourself recently, your 829

[fol. 3276] Pittsburgh interests, have very recently acquired a large property in the State of Ohio?

A. We have.

Q. Do you know the particular property and the character of the sands under this property?

A. I do.

Q. How do those sands compare with the sands like the Big Injun and Berea and how does the market value of properties in Ohio compare with the market value of properties within this territory?

Colonel Wallace: We object to that. We think it is too far away to be helpful in establishing value here.

Chairman Coffman: The objection will be noted and considered.

Colonel Wallace: Exception; please note an exception in each case.

The Witness: The producing formations under the properties we acquired, which was as of January first, were in 830

[fol. 3277] two reliable sands in Ohio. The approximate value in my opinion would not be up to the value of these gas lands because we are confined practically to two formations in that purchase. I wouldn't look for any other value. In these lands you have a good many chances. That all goes into it, in my opinion, as to the value of the gas lands in West Virginia. At the same time we paid what I considered a very far price.

Colonel Wallace:

Q. What company was that?

A. The Penn Gas Company.

Q. Is that a public utility?

A. No, sir.

Q. Does it sell to a utility company?
A. To pipe line companies.
Q. Which is turn sell to utilities?
A. I don't know. We sell to the nearest pipe lines. The contracts were made up when we took the property over.

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[fol. 3278] Q. You don't know where it goes, to the ultimate consumer?
A. I can give the names of them. The Ohio Fuel Supply, the East Ohio Gas Company, the River Gas Company. Those are the companies—there is one other, the Natural Gas Company of West Virginia, four purchasers of that gas.
Q. From your knowledge of the gas business, you say you don't know whether they sell it as public utilities?
A. Sure, their business is all kinds of gas business, domestic and industrial.
Q. It is a regulated business?
A. One part of it, I presume.

Judge Rummel:

Q. That is the domestic business?
A. Yes, sir.

Colonel Wallace:

Q. And you don't know that the other part of the business isn't regulated?
A. I don't think it is over there in Ohio.

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[fol. 3279] Judge Rummel:

Q. From your experience in the Natural gas business and your personal knowledge of the condition of these properties and from the data and records furnished you and which you have studied and taking into consideration all the facts and circumstances concerning which you have testified, are you able to express an opinion as to the fair market value of the gas leaseholds and gas fee lands of the United Fuel Gas Company as between a willing buyer and a willing seller, excluding value of wells, well equipment, and physical equipment of every kind?

A. I believe I am so qualified.

Q. Are you able to express such an opinion as to the value of the proven acreage, designated by Mr. Davis as Class 1 and 2?

A. I am.

Q. Are you able to express such an opinion as to the acre-

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[fol. 3280] age included in Class 3 and 4 as made by Mr. Davis?

A. I believe I am.

Q. Please state your best judgment as to the present fair market value of the proven Class 1 and proven Class 2 acreage of the United Fuel Gas Company and the Warfield Natural Gas Company, excluding the wells, well equipment, and all physical property of every kind belonging to these two companies?

Mr. Scott: We object.

(No ruling.)

The Witness: I have united the 1 and 2 in making my idea of value.

Judge Rummel:

Q. Why have you done that, Mr. Dally?

A. Well, the developed acreage, are we will say partially drilled or some that is part operated up to a certain extent. The adjoining acreage or proven is called the No. 2 and perhaps the rock pressure under that No. 2 might be higher

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[fol. 3281] than the No. 1. The two together, however, make what I call proven acreage and I put a value on these two together.

Q. In the determination of values for properties examined for interests you represent do you use the same method you have followed in evaluating the leaseholds under consideration?

A. We follow the same valuation in buying properties.

Q. Now, will you please give us the market value for this proven acreage in Class 1 and 2?

A. I put a value on the proven acreage in 1 and 2 of—can I refer to my memorandum?

Q. Yes, sir.

A. Of $145.00 per acre, that is, on 358,294 acres.

Q. What value have you put on Class 3 acreage?

A. On No. 3, $40.00 and a valuation on No. 4 of $3.00. The total of those figures comes to $59,504,953. My idea is that the value of this property is anywhere from 55 to 65

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[fol. 3282] million dollars. A matter of 10 per cent wouldn't be in trading or buying it a large factor. The reasoning I get out of that is this: The gas lands are the basis of the whole institution. You may have an organization, pipe lines and equipment and money in the bank but you must have a gas supply. A gas supply can't be picked up in West Virginia or any other state just going out and getting it. Today gas lands are scarce or closely held and without them as a basis you wouldn't have any gas company. That is my view of giving it a value and that is why I say a few million dollars doesn't have such weight.

Q. You have expressed the opinion that the leaseholds and fee gas lands of these two companies have a value somewhere between 55 and 65 million dollars?

A. Yes, sir.

Q. I will ask you what is your opinion as to whether there would be a market for these leaseholds and fee

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[fol. 3283] gas lands if they were for sale by the United Fuel Gas Company and the Warfield Natural Gas Company?

Mr. Scott: We object.

The Witness: I believe a market could be found in a very short time to take over a thing as large as this; readily take it over at that valuation. The natural gas business and the value of leaseholds has had a marked change in the last four or five years. The business is viewed with greater favor. There is more money available to go into the natural gas business than ever was before. Some of the largest ever undertaken are right now under way in the southern part of the country and it seems if anything else has slumped, the natural business has not. I take it that would be the condition of the large area here.

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[fol. 3284] Q. Mr. Dally, what do you mean by the expression "present market value"?

A. A value which a willing buyer would pay a willing seller in case of a sale, and the value that men in the natural gas business, largely in it, would consider in making a purchase.

Q. In this valuation have you included anything on account of the oil rights in the leaseholds held by these companies?

A. None whatever; strictly for the gas business.

Q. In making up these estimates of value have you considered the present state of exhaustion of the properties and all the conditions and obligations of the leases?

A. Yes, sir.

Q. These conditions and obligations, you think a willing purchaser would assume them, do you?

A. I have no doubt about it; they are average conditions.

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[fol. 3285] Q. What have you to say as to whether the value you have testified to would apply as of December 31, 1928?

A. If there is any change it would be more right now than it was four or five months back. It would apply to December 31, 1928.

Q. I believe you testified that while you were connected with the Manufacturers Light and Heat Company twenty years ago the company carried here in West Virginia and elsewhere approximately 600,000 acres under lease?

A. A little more than 600,000.

Q. And about two-thirds of that acreage was in West Virginia?

A. More than that, about three-quarters I think.

Q. What would you say as to whether it is practicable for a gas company like the United Fuel Gas Company to use its proven territory until it was exhausted or nearly exhausted and not carry any acreage as by you considered under Class 3 and 4?

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[fol. 3286] A. I would consider the management to be very poor to let go any of their gas lands and in addition to what they had I would take up all I could get. We always do that. We never let a good piece go and buy what we can pick up.

Q. From your experience and your knowledge of the business of the United Fuel Gas Company and Warfield

Natural Gas Company are you able to express an opinion as to whether the acreage in Class 3 and 4 of these companies is large or small?

A. From my standpoint if I could increase it with more acreage I would carry more than they do as prospective to support the other large business. There is a big obligation in this gas business and you have to support it by gas lands. As I said a while ago, that is the basis of the natural gas business. You have to have the ground to

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[fol. 3287] take it out of as you go along. I don't believe it is an opinion only, that to take a view of West Virginia, the entire West Virginia field, the prospective field of West Virginia, I don't believe there is a man in the gas business in a large way, or a small way, that can point some gas territory out today. I don't know where they are.

Q. Suppose the United Fuel Gas Company and Wayfield Natural Gas Company would surrender all their acreage in Class 3 and 4. What have you to say as to whether that would be a wise move and whether when this acreage was needed for additional development would that acreage be available to these companies?

A. It would be a very unwise thing and it is not likely the acreage would be available. Such acreage would be picked up and it would find its way into the industrial business and it would get away from them.

[fol. 3288] Q. In other words, their competitors would have the acreage?

A. Yes, sir, and a great deal would go out of the state into other states. They want gas too and there are a lot of big lines here. I consider the reserve of the United Fuel Gas Company as a very essential thing for this whole region.

Judge Rummel: I think that is all.

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[fol. 3289] Cross-examination.

By Mr. Scott:

Q. You say that if this territory were taken up by someone else the gas would find its way into industrial lines?

A. Yes, sir.

Q. Do you mean by that it would be lost for domestic use?

A. Yes, sir.

Q. Then, you have in mind mainly the domestic consumption market, haven't you?

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[fol. 3290] A. No, business of these companies is general. It takes the domestic, too, but they have to have all the business to permit them to operate.

Q. Take the United Fuel, it has to have both industrial and domestic, doesn't it?

A. Yes, sir.

Q. And as a matter of fact the bulk of its gas eventually reaches domestic consumers, does it not?

A. I don't know the bulk of it does, perhaps the balance is that way, but the domestic alone would not maintain this big property.

Q. I understand that but doesn't the Ohio Fuel you spoke of go eventually to domestic consumption?

A. I don't know how much goes to domestic but it is a large amount.

Q. That is true, too, of the Pittsburgh and West Virginia, or the West Virginia and Pittsburgh, isn't it?

A. Yes, sir, that is true of their supply.

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[fol. 3291] Q. And that is true of the Hope Natural Gas Company, isn't it?

A. Well, I can't speak intelligently as to how much of their gas goes into their line. They take large amounts and sell large amounts of gas.

Q. That is true also of the gas going to Central Kentucky across the Big Sandy, isn't it?

A. Yes, sir.

Q. And that is true of all gas that comes down from Balls Gap to the Huntington Gas Company and into Cincinnati and Dayton?

A. I wouldn't think it was all domestic.

Q. Not all domestic but it goes to public utilities who sell both industrial and domestic gas?

A. I don't know the arrangements there, I suppose they are supplying them at the city gates, beyond which it gets into domestic, but I don't know the proportion.

Q. Mr. Dally, do you know the holdings of the United Fuel Gas Company in the Spencer field?

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[fol. 3292] A. Yes, sir.

Q. What is it?

A. Such as I got from these records.

Q. You don't know off hand the amounts of acreage in the respective pools?

A. I saw it in going over the records.

Q. You relied entirely on the records for that?

A. Yes, sir.

Q. Now, in each one of these pools the gas is from a different sand? I don't mean literally but there are a number of sands in the different fields?

A. Yes, sir, the different sands that produce gas.

Q. Those sands vary in depth, in volume of production, and in cost of drilling, don't they?

A. I don't think the cost is a very serious difference in any fields down here but the depth of sands are somewhat similar.

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[fol. 3293] Q. But they differ in the distance from the markets, do they not?

A. Yes, sir.

Q. In consequence those different fields or pools as Davis calls them have different values, haven't they?

A. Well, they may have different values as to local conditions, a local pool here and a local pool there or in another county, but they have an average value in the reasoning I gave.

Q. Take the pools the United Fuel Gas Company claims as such. Now, they have different ages, they had at the outset different rock pressures and because of their age now have varying rock pressures, do they not, as among themselves?

A. Yes, sir.

Q. Presumably each has its own gas left which you may speculate on or know, either one or the other, that is true?

A. You can't know definitely.

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[fol. 3294] *A. You can't know definitely.*

Q. I agree about that presumably they must have different contents in the nature of things?

A. Yes, sir.

Q. Now, all these things of necessity make these different pools of different value do they not?

A. Yes, sir.

Q. And aren't different parts of any one pool different from another part?

A. There might be in the opinion of the operator or the management of the company as to wells being a little more productive in one part or another but the wells as an average make it general.

Q. But they produce different results, don't they?

A. Yes, sir, they are individual but out of the same formation it is merely a question of volume. In some the rock pressure may not differ very much in the same pool but the volume may differ. It don't make the general production

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[fol. 3295] very different.

Q. This data you have referred to shows widely different results in performance of wells, doesn't it?

A. Yes, sir.

Q. Now, then, have you kept your working papers by which you arrived at the figures you have given per acre?

A. No, I didn't keep working papers on that.

Q. Did you make any?

A. Yes, sir, I did.

Q. You haven't them now?

A. I have some data but it is just memoranda in figuring over it.

Q. What average value in dollars did you arrive at for the Branchland field?

A. Well, I don't remember. I didn't make a set of figures I could refer to in all fields, I took it as a whole.

Q. Did you arrive at any estimate of value of any of these fields?

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[fol. 3296] A. I did.

Q. What was it?

A. I picked out the three or four or five major pools. I placed the greatest value in my opinion on those pools for the productivity of leases at this time.

Q. Naturally, but I am asking specifically what value you put on pool A, B, and C?

A. I didn't itemize them.

Q. Are you able to tell how you arrived at your result?

A. I arrived at the result by the experience I have had in the valuing of gas lands from the purchase and sale of other gas territory.

Q. I understand that.

Judge Ritz: Let him answer.

Mr. Scott: He won't need any help.

The Witness: I find my values or arrive at them by a number of factors, among which, I have given the principal ones. I don't think it would be helpful to the Commission

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[fol. 3297] or to my testimony to start with all this data and figure out in my judgment what that or this pool would produce to put a value on these lands. I don't believe that would be helpful.

Q. Will you please tell me what property you will instance as analogous to the whole of the territory that you have valued that was actually bought or sold? I mean, Mr. Dally, not simply in the nature of the territory, but in the size and in the quantity of it and in the markets which it had access to?

Q. Well, I didn't take it on the access to market.

A. All right, leave that out.

A. You know the leases that I have examined are all connected up, perhaps with some exceptions, but they all go into their pipe line system. In considering values here I considered the Big Injun, the Berea, the Weir, the producing sand in eastern Kentucky, that is in Martin and Floyd

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[fol. 3298] Counties, and wherever those same formations have been producing in any of the other areas I class them all under one in productivity, not as to particular leases in volume but general in the formation, I would say that formation puts a certain value on the lands, for the future of the company.

Q. And that would be regardless of its state of exhaustion?

A. No, it would be regardless of individual location.

Q. I am reminded that Mr. Wallace testifies they had drilled a number of wells last year but the production was considerably smaller than former years. Would that make any difference?

A. Well, it wouldn't make any difference in the general average result of these territory-s. It is true that the yield per well as the field gets older is less, that is a natural result. That couldn't be said over the great mass of this territory that has not been fully drilled.

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[fol. 3299] Q. I will remind you, Mr. Dally, the question I asked you was: If you could give an instance of the purchase and sale of any field which you could describe as closely analoguous to this one in the way of size, sands and production, market, and so forth?

A. I don't believe I can outside of the ones I mentioned where there has been a sale and purchase. I don't know of any gas lands just like these that have been disposed of by the companies owning them. Gas companies wouldn't sell those kinds of land.

Q. But I understood you to answer counsel's question that you were to give and did give what in your *your* opinion was the present market value of these lands if sold by a willing seller to a willing buyer?

A. That is on an average.

Q. I am still asking what illustration you have, what instance of such a sale?

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[fol. 3300] A. The records of the wells and the productivity of the property——

Q. I am still asking if you know of any such instance?

A. I answered that I do not know of any sale property like this; they don't sell them.

Judge Rummel: There are none as good as the United Fuel?

A. You can't buy them for the sums I have mentioned.

Mr. Scott:

Q. I understood you to say that you regard the data that the books in the office furnished you as equivalent to the pipe line sales in the oil business, is that true?

A. No, that illustration might not have been explained fully but I will explain the point, whether it has any bearing or not——

Q. Go right ahead.

A. This is the idea: In the sale of oil properties to a large buyer they will send out men and they will have maps and all the data but the one thing they want on it is to

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[fol. 3301] know is the record of the wells drilled and they will go to the pipe line to see how much oil has been produced.

Q. How much money has been coming out of it?

A. How much gas or production, regardless of the price. What they produce.

Q. The price of oil is uniform at a given time of a given grade all over the land, isn't it?

A. Not very much different.

Q. It is on the open market, bought and sold?

A. Yes, sir.

Q. On the contrary gas depends upon a great number of factors and the price differs as much as there are as many different places, as there are communities?

A. Well, it oughtn't to.

Q. I didn't ask that. It does, doesn't it?

A. I should say it ought not to; it is a circumstantial

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[fol. 3302] situation that one city has better rates or is paying a higher rate.

Q. As a matter of fact it does differ from one community to another and from one state to another?

A. Yes, I believe there is a difference.

Q. Will you tell us why that is?

A. No, I don't like to express an opinion. I might give you simply that, and I assure you it is not the way to get at the rates and it isn't a part of my testimony to discuss rates—this is a very favorable rate. Now, the community that tries to keep the rate low, I don't think they are favoring themselves by doing that but as long as they can hold out the victim is the gas company. There is no comparison with natural gas for efficiency and economy and cleanliness, and you can't go out and make that fuel. Now, it is produced at a hazard. The natural gas business as the oil

856

[fol. 3303] business — hazardous. You can't take the chances from it. With all the information you can get you may lose your money. Now, it takes a great many holes to get a supply of gas and I believe the fellows of that

kind, the fellows that put their money in it, ought to have a return that would make it safe as some other business. In the amortization there ought to be a large margin that you couldn't ask for in some other line because of the hazard and on account of not being able to go out and get natural gas any place. I think it ought to be in a position in all cities and towns not too high that the citizens couldn't pay for it but they ought to pay all it is worth and I would like to see a uniformity based upon the value of that fuel.

Q. Then you and I differ about its worth. I gather that you are not necessarily in favor of high rates?

A. Well, rates that we can maintain our business at.

857

[fol. 3304] Q. You say the business is so hazardous. How do you reconcile that with the statement a while ago?

A. Well, I can't reconcile that with some man who has never been in the business but it is a phase of our present business and one of the things that has been brought about very largely and reflecting itself in the Appalachian system, and practically established in the southwest, is the very large fields of natural gas, sometimes 100 or 150 square miles of developed territory that has been lying there without a market. Now, that has been in that situation for four or five years. Now, capital is going into that in the case I spoke about. These fields down there have been developed by the oil people, having not only millions but billions of feet of gas, shut in mainly, is finding its way in and they are taking the chances while we have very much less volume, but in the natural gas busi-

858

[fol. 3305] ness the hazard of drilling wells and the average results are just the same. It is part of the business.

Q. That reflects the opinion of bankers and money men as to the nature of the business?

A. Yes, sir.

Q. They no longer fear, if they ever did, the danger or hazard?

A. They don't take the hazard away from it; you can drill a dry hole any time.

Q. This territory you spoke of in Ohio, I assume it was entirely unconnected with this field or this market?

A. It is not connected.

Q. And should have no bearing on this question that has been injected here?

A. It has the same bearing that gas territory would have being sold any place.

Q. In Oklahoma or Texas?

A. Not so much in Oklahoma as to price because there

859

[fol. 3306] are great areas out there undeveloped. The same prices don't prevail.

Q. Now, Mr. Dally, going back a moment, something we were talking over a whole ago, the truth is that in your estimate of these values you made purely a guess?

A. No, I didn't.

Q. You didn't value it as you would so many barrels of oil, did you?

A. I don't want to speak in a manner that would lead you to believe I am egotistic about it but I would pay that price for natural gas lands and I would expect to make some money.

Q. You would expect to do a public utility business, wouldn't you?

A. No, sir.

Q. What could you do with the gas lands of this company?

860

[fol. 3307] A. I would do the best I could. If it was rates that needed reforming I would try and reform them. I would be in this room today, perhaps.

Q. Aren't you here?

A. I am trying to be helpful in this matter. I believe the company here, these gas companies, the two of them, need a better rate. I did not know until recently that they have as low a rate in Charleston as they have. It is very favorable and not favorable to the gas company.

Q. In short the value depends upon the rate?

A. No, sir, I don't think so entirely but of course if it was very low you couldn't pay much for it.

Q. You are taking into account present rates and possible rates?

A. No, I didn't say possible rates. I don't believe they could continue to sell gas at that price. I don't believe they could.

861

[fol. 3308] Q. I will ask you again if the value of that property does not depend upon the rate?

A. Well, yes, the rate must be such as to justify them adding to their acreage and continuing the business.

Q. How much did you say the American Rolling Mills sold?

A. I think it was 67,000 acres.

Q. Are you certain of that? Do you know the price?

A. Yes, sir.

Q. Do you know the number of leases there?

A. 67,000 acres of which 22,000 is owned in fee. I took that as part of the 67,000, that would be 45,000 acres of leaseholds.

Q. Do you mind saying how you came by that information? I will not press you if you don't want to say.

Judge Rummel: It is a matter of public record and knowledge.

A. I got it first at Pittsburgh and I later had more information.

Judge Ritz: I can't see that is pertinent.

Mr. Scott:

Q. This South Penn you spoke of, is that a utility?

862

[fol. 3309] A. No, that is an oil company.

Q. Is it a common carrier or a pipe line?

A. The Eureka owns the pipe lines.

Q. You spoke of some local companies in Huntington?

A. I referred to the ones there now.

Q. They are public utilities?

A. I don't know.

Q. And the Natural Gas Company of West Virginia?

A. It is utility.

Q. And the Hope, I believe, I asked you?

A. I think the Hope is a pipe line or producing company. I don't think they have a utility business.

Q. You say, Mr. Dally, that if you were investigating a purchase that you would want to know what has been drilled and when and where the development was and that you might do some drilling and get results of all drilling in the neighborhood through practical men?

A. Yes, sir.

863

[fol. 3310] Q. And you watch test wells and get all the information from practical men you could and then you would perhaps avail yourself of some of the studies of geological experts?

A. Yes, sir.

Q. You couldn't afford to do without the practical men, could you?

A. No, sir.

Q. And without that knowledge of the field and results?

A. No, sir.

Q. You wouldn't buy any property on the basis of some report of a professor of geology, would you?

A. If I did, I would expect to have a good fellow take charge of it.

Q. I mean on his information until you have put the practical men on the ground?

A. He knows a lot about it and you take it on these geological reports.

864

[fol. 3311] Q. You wouldn't buy it in that way would you?

A. Yes, sir.

Q. Solely and only?

A. Yes, sir.

Q. Where did you buy producing territory?

A. No, not producing territory but prospective and bought it on geological dope.

Q. Wildcat territory?

A. It is about the same thing.

Q. What do you call this 1,300,000 acres that you put in at $3.00 and $4.00?

A. I think it is too low but it is prospective.

Q. Do you know of any development in it?

A. I believe there is some few wells here and there in some of that territory.

Q. Do you know what they are or where they are?

A. I think there is one that comes to mind in Raleigh County. I don't remember exactly but I think there are [fol. 3312] 243 wells in this acreage.

865

Q. A well in Raleigh wouldn't prove anything about Martin County, Kentucky, would it?

A. No, sir.

Q. And generally speaking that wouldn't prove anything?

A. No, but it would mean a great deal to have it over in Raleigh County. If you would show me a well that was not producing I would take notice of it.

A. You have no way of knowing that if the United Fuel Gas Company or any other holding company gave up this particular territory that you call prospective that they would thereby lose a large gas field? You don't know the gas is in there, do you?

A. You don't know it is but you think it is by the surrounding conditions by reason of which you took it up and this land has all been taken up under some experience, advice of geologists or otherwise, or in the general trend of the producing areas of the company, and they have taken [fol. 3313] that up as a stock ahead on the shelf.

866

Q. Fifteen years ago our gas men in this territory had these studies like Mr. Davis makes here?

A. Oh, yes, they did. Geology is an old study.

Q. Did they apply the Boyle's law?

A. Boyle's law? Yes, that is an old one too. It goes back to the sixteenth century. That is an old one.

Q. Do you know of any studies that you found in the United Fuel Gas Company's office that are analogous to those Mr. Davis' prior to the time he came into this case?

A. No, I don't know what geological data they employed before Mr. Davis came. I have no knowledge of that.

Q. But you do know that they have leases in this prospective territory that they acquired before those things came under their observation?

A. Yes, sir. If the trend of development in West Vir- [fol. 3314] ginia which has its start in New York State and

867

came down through Pennsylvania, through this active area, and some fellows came down here of started here and picked some leases up without any geological survey, it is good judgment to pick some of it up.

Q. And it is purely prospective?

A. It is prospective with the prospect of getting something, too.

868

[fol. 3315] Recross-examination.

By Mr. Scott:

Q. Then I would like to hear you again on what you did

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[fol. 3316] consider in fixing your values?

A. I have been producing gas for a great many years and I know what properties will produce or what they ought to produce. As I say, there is a hazard always, and I fix my values here on a willing seller and if we had a willing buyer. In the last deal we had, and we were the buyer, was one of the factors, and we bought that property at a price very close to my figures with a view of making some money out of it.

Q. But the money you expected was out of sales of industrial and domestic gas?

A. No, I didn't use any classification or anything of that kind but I know it would have to come out of gas sales.

Judge Rummel:

Q. But not necessarily a regulated business?

A. No, sir, there is an industrial business and I want to

870

[fol. 3317] say that one of the companies I am in has some of it today. We are not regulated but subject to private contract with the consumer and we get rates that that particular class of business is willing and can afford to pay. Now, that means one consumer or half a dozen as against very expensive distribution systems if you are in the other class of business.

Q. But you are in the other class of business?

A. No, sir, we are not. There's one I am a director in but it is an industrial business.

Colonel Wallace:

Q. Do you know of any market in West Virginia for industrial gas?

A. I would answer that yes but it would be plus a pipe line to take the gas to that market.

Q. Where would that be?

A. That would be up in what we call the 60 or 75 mile district in Wheeling.

871

[fol. 3318] Q. And you think you could sell all the industrial gas you want to?

A. A great deal.

Q. And then it would become a regulated market, wouldn't it?

A. I don't think so.

Q. Do you know of any industrial market that this gas might be sold to?

A. No, I haven't made any investigation down the river.

1836

[fol. 3319] Q. Did the report of Mr. Davis with reference to the gas content in the ground influence your opinion with reference to the value of the property?

A. It did, in addition to my examination of the records of the United Fuel Gas Comany that were furnished me, and that I went over. I also attached importance to and took Mr. Davis' figures as supporting my opinion of the gas contained in those properties.

Q. What gas content, if any, did Mr. Davis find was under Class 3?

A. I can't recall that, what he put Class 3 in or what he allotted to Class 3 in the gas reserves. I can't substantiate any figures without looking over those records..

1837

[fol. 3320] Q. As a matter of fact he didn't place any gas content in that class?

A. I don't think so. I think 1 and 2 was the properties that supported his figures as given in this case.

Q. Then, his report to that extent did or did not influence you in your value of Class 3 and Class 4?

A. Well, not necessarily Mr. Davis' findings or data, but from the location of Class 3 in connection with the other classes owned by this company, I gave, in my opinion, a value to the possibilities of finding gas on Class 3 territory, largely dependent on the development and data that the company has furnished on Classes 1 and 2, and from the general location of Class 3 with respect to the trend of the gas or prospective gas areas.

Q. And to the extent that you valued Class 4 you applied the same reasoning?

A. Yes, sir, Class 4 would be called generally prospec-

1838

[fol. 3321] tive, being in the general trend along the Appalachian system, and within the possible bounds of what

might be gas territory after further development has been made in those areas.

Q. In arriving at your valuation of the leaseholds did you consider the consideration or amount paid for the leases by the respondent?

A. I did.

Q. You did take that into consideration?

A. Yes, sir.

Q. You stated, I believe, that you do not know of any gas territory to be had, am I right about that?

A. Generally speaking, that is correct from my standpoint. There might be an occasional lease that could be or would be called gas territory that could be picked up, but there is no appreciable amount of gas territory obtainable or that is open that could be taken up at this time that I know about.

1839

[fol. 3322] Q. If you had been asked that same question in 1923 what would have been your answer?

A. Well, I would have perhaps answered that there was still some territory available or land that might be classed as gas territory, following development that has taken place since 1923. Undoubtedly there is less opportunity to pick anything up in 1928 than there was in 1923.

Q. There is considerable territory in the State of West Virginia that has never been leased, isn't there?

A. I think there is considerable territory, perhaps, that might be called remote or wild cat territory, that upon development might develop some gas but it wouldn't be what I call the ear marks of it now, because if there is any available territory or very much of it I feel that the gas interests and the operators down here would have it under lease.

Q. They were all looking for gas territory in 1923 that

1840

[fol. 3323] might be prospective?

A. Possibly so.

Q. And in the light of development since 1923, certain leases have been taken up that was not then productive that is now productive?

A. Well, there has not been any new fields or new areas opened up in the past five years. There has been some additional land proven up, but there has been no big, new areas opened in this State that I am aware of.

Q. If a lease was taken up in the year 1928 for which 25 cents an acre was paid, what would that indicate to you?

A. Well, it might mean that the person from whom the land was taken up and the party taking it didn't give very much value to the particular territory that they could get for 25 cents an acre, and yet that 25 cents an acre stuff might develop into something very valuable on being de-

1841

[fol. 3324] veloped. What would you say was the value of that lease?

A. Well, I can't answer that unless you could give me some idea of location.

Q. Do you know whether or not there is a gas producing well in Randolph County?

A. I don't know of any producing well in Randolph, but I do know there was one not far from the Randolph line, I believe in part of Upshur, if I am not mistaken in my geography, in the southeastern part of Upshur, close to Randolph.

Q. Do you know whether or not the respondent has any gas wells in Barbour County?

A. I don't know of any in Barbour County.

Q. Do you know of any producing gas wells in Mason County at the present time?

A. I don't know of any commercial gas wells in Mason.

Q. Do you know of any gas producing wells in Monroe County?

A. Only what I have heard in the testimony here. I

1842

[fol. 3325] understood there was development being made there but I don't know a great deal about it.

Mr. Scott:

Q. Mr. Dally, isn't it a fact that prior to rate investigations this territory on which the new wells were drilled was called wild cat territory?

A. That is a term used a good deal by oil and gas men.

Q. Well, that, in fact, is the ordinary man's characterization of No. 3 and No. 4 isn't it?

A. No, I wouldn't call that the characterization of No. 3. No. 4 would take that term in, and yet those who would lease up No. 4 and call it wild cat had some idea it is.

Q. Means it would be good territory sometime?

A. Yes, sir.

Q. Well, of course everything has to have a start, because daring men took a chance on territory where there was no evidence whatever of gas except that it was in the north and east Appalachian trend?

A. Yes, sir.

1843

[fol. 3326] Q. And then as the business progressed there was still and still are large bodies of territory in that general belt that had never been touched with a drill as yet?

A. I have no doubt that is true, but they have been to some extent discounted or their condition made more valuable by certain drilling that has been done.

Q. Yes, sir, that is true. Now, you said since 1923 there had been little change in the picture in this particular territory, didn't you? You knew pretty well in 1923?

A. Well, the change in the picture might have been considerable by the amount of drilling in the developed areas, but I don't think there has been added to the prospective gas territory in this state but very little acreage in the past four or five years.

Q. Are you at all personally concerned or interested in the shale feature of the territory on west of Charleston

1844

[fol. 3327] into Kentucky?

A. Not particularly.

Q. And you don't know much about it, do you?

A. Just what I have learned from the developments of other parties. It's in its infant state.

Q. In its infant state?

A. Well, more or less, that might be an answer, but I don't believe there are any operators starting in to drill the shale territory as a prospect alone. They are looking for these regular formations and if they develop the shale gas they utilize it. Whether that will extend the shale gas territory or that which will produce strictly shale I can't say.

Q. I was speaking of that going on now as a type of what has happened in all these other sections. It has been a gradual process of discovery?

A. Yes, sir.

Q. And they all follow approximately the same process,

1845

[fol. 3328] some experiment in wild cat and some succeed and others do not?

A. Yes, sir.

Q. And after a man has been prospecting he makes a location, and unless he has development on which he may add to his chances, etc. There is no set rule for developing? In some instances, I believe they would drill out from development to try to extend it and any other sort of drilling would be wild catting, wouldn't it?

A. Well, not that if they found some basis in the shale?

Q. Well, if you get a well it is not wild cat to drill a well near by?

A. Yes, sir, that is true.

Q. But until you do get a well it is wild cat drilling?

A. Yes, sir.

Q. In going over this property have you noted where the wells are grouped, where they are drilled?

1846

[fol. 3329] A. Yes, sir.

Q. Mostly in compact groups, aren't they?

A. Well, it is a pretty large territory and it is spread out considerable.

Q. But in a given pool it is very compact?

A. Yes, sir, it is drilled out in about the usual manner.

Q. And when drilling is done it is almost altogether done in that compact territory and in proven locations, isn't it?

A. I think so, yes, sir. I think they follow that as far as they can.

Commissioner Nethken: Mr. Dally, did you take into consideration that the company had its plant located on these various leases when you placed a value on the leases?

A. Well, the values that I placed were outside of the wells and equipment and any other properties of the company,

1847

[fol. 3330] and of course the property—the gas reserves in the territory wouldn't be gas territory unless it had been drilled to prove it as such, but my values are arrived at as to this being gas territory that a willing buyer and a willing seller would trade in or a person wanting to go into the gas business would consider buying, divested of the wells.

Q. Then, as I understand, if there was not a well drilled on any of these leases or a pipe line to any of the wells on these leases, that you would have valued the leases at the same amount that you did?

A. Well, my values were not made up on the basis of what I might dispose of the gas for to the pine lines of this company; but necessarily if there were a buyer or purchaser for this property and those lines were not used as the market lines, there would have to be other pipe lines constructed to take the gas to market. My ideas of value

1848

[fol. 3331] was made up as to what that territory would be good for to take to market in another pipe line that might be laid into the territory.

Q. Well, then, repeating my question, you would have placed the same value on these leases if there hadn't been a well drilled or a pipe line laid on any or them?

A. I heard that question debated yesterday, and it's a little difficult to imagine a situation in which there would be no wells drilled and yet know it was producing gas territory.

Q. You have valued thousands of acres in Class 1 in which there was not a well drilled, haven't you?

A. Yes, sir, there has been such valuation made by me. It has been developed by drilling on other lands adjoining.

Q. But we are assuming the gas is in the ground?

A. Yes, sir.

1849

[fol. 3332] Q. We are assuming the pressure is there.

A. Yes, sir.

Q. Then, assuming that, what do you say?

A. Assuming that my values are made up outside of the United Fuel Gas Company's pipe lines or its market?

Q. Yes, and if not a well on any of this property or a pipe line laid, you would have found the same value?

A. Yes, sir.

Q. You spoke of the hazards in the gas business, what did you have in mind?

A. Well, the hazard is the drilling of unproductive or dry holes, which takes place in all gas and oil territory.

Q. I was speaking particularly as to the respondent here. What particular hazards does this respondent have that you think of?

A. Well, on much of their territory they have less of that
1850

[fol. 3333] general hazard by reason of the character of the formations and the number of sands or formations that this territory contains. That may be brought down to an average or a reasonable percentage of dry holes. Some of it is very general, and the number of dry holes are very few, comparatively speaking, others would run higher in leases or dry holes.

Q. You have mentioned the dry holes. What other hazards do you have in mind, if any?

A. I don't have any other hazard in mind in the business, except the transportation of the gas,—all the things that a gas company, in serving the public or otherwise, has in transporting gas, handling it as a product. That always follows the gas business to a certain extent.

Q. You, I assume, are familiar with the way dry holes are handled by this company, are you not?
1851

[fol. 3334] A. Yes, sir.

Q. How are they handled?

A. You mean on their books?

Q. Yes, sir.

A. Well, I may not be as familiar with how they handle their dry holes, but we take the drilling costs of unproductive wells and charge it against the general development work or operation.

Q. You mean in your capital account?

A. Yes, sir, the capital account. The well starts off as a new capital investment and if it proves unproductive we credit all the tangible property recovered from the dry hole, in the way of casing or pipe equipment, and the remainder represents the loss or the expense.

Q. And to what do you charge that, to your depreciation reserve or operating expense or what?

A. Well, there are two ways they have to handle it. We
1852

[fol. 3335] charge ours generally to expense.

Q. Well, that is the way they are handled by the respondent here, is it not?

A. Yes, sir.

Q. The dry hole, the cost of it, goes in as part of the operating expense?

A. Yes, sir.

Q. Now, that being true, what hazard is connected with it?

A. Well, if you drill enough of those you have quite a loss. The drilling expense, according to the territory, represents a large part of the complete costs of a well.

(Reporter Cain here relieved Reporter Stanard.)

1853

[fol. 3336] If you know the minimum amount of gas or if you knew the actual amount of gas you would get in drilling a well, what would the minimum amount be that you would drill for instance, if it were necessary to drill 2,000 feet? I am speaking of this particular territory in which the respondent is operating?

A. In this territory?

Q. Yes, sir.

A. I would, in my opinion, think it good practice to drill for wells that would produce 200,000 to 250,000 feet per day.

(The witness is excused.)

872

[fol. 3337] From Co. Ex. 102—United Fuel, 1928, case

Thereupon came J. C. Blair, a witness of lawful age, introduced on behalf of the respondent, who being first duly sworn, testified as follows:

Direct examination.

By Judge Rummel:

Q. Where do you live Mr. Blair?

A. Charleston, W. Va.

Q. What is your present business connection?

A. An oil and gas operator.

Q. Where?

A. In West Virginia and Kentucky.

Q. For how long have you been engaged in the natural gas business?

873

[fol. 3338] A. Since 1911.

Q. What part of that time have you been engaged in the natural gas business in West Virginia and Kentucky?

A. All that time.

Q. Where has been your headquarters?

A. Here in Charleston.

Q. Will you please briefly outline your training and experience in natural gas business?

A. I came here in 1911 as president of the Standard Fuel Company, a company which is organized for taking over oil and gas holdings.

Q. Where?

A. In Cabell and Roane Counties, and some in Ohio, and I have been connected with companies up until about 1911, when I organized some companies of my own and drilled wells for myself and others interested with me, and I have been in that business continuously since 1915, over Kentucky, West Virginia, Ohio and Texas.

874

[fol. 3339] Q. What was the size of the Standard Fuel Company?

A. Oh, as I remember, somewhere around three or four million dollars.

Q. Do you recall approximately the number of acres held by that company while it was active?

A. I suppose 50,000 acres.

Q. And you say the holdings were in Cabell, Roane and Ohio Counties?

A. Yes, sir, and in Ritchie County.

Q. You have started after that time you organized several companies yourself. Will you give us the names and where the holdings of these companies were?

A. Well, I operated the William Seymore Edwards property for several years; I organized the Monickle Gas Company, The Commercial Gas Company, the Grant Gas Company, a gas producing company, and the Beaver Creek Oil & Gas Company and several others that don't come to my

875

[fol. 3340] mind at the present time.

Q. Well, what was the total acreage of these companies, approximately?

A. Oh, it would be hard to make a definite answer to that. I suppose in the neighborhood of 100,000 acres.

Q. And in what particular territory?

A. In Kentucky, West Virginia and Ohio.

Q. What proportion of the acreage was in West Virginia?

A. Well, most of it was in West Virginia, just a little in Ohio and Kentucky.

Q. Did these properties produce natural gas?

A. Yes, sir.

Q. Any oil?

A. Yes, sir.

Q. What was the major production of these companies, oil or gas?

A. At times gas and at times oil.

Q. What would you say was the major production in the

876

[fol. 3341] last five or six years?

A. The gas production.

Q. During that time did you have anything to do with buying or taking up or renewing oil and gas leases?

A. Yes, sir.

Q. What position did you hold with the several companies about which you have just testified?

A. Well, I was president and general manager of practically all of them.

Q. The properties held by the companies, where they developed properties, or did you acquire the leases on these properties and develop them yourself?

A. Some of them we acquired the leases on and on the others we bought the properties.

Q. I will ask you what experience you have had in the investigation of properties with a view of purchasing the same?

A. Well, that is the business I have been in during the

877

[fol. 3342] last eighteen years, doing that kind of work.

Q. From the experience you have had during the past eighteen years, would you say you have a general knowledge of the Appalachian gas fields in West Virginia and Kentucky?

A. I think I have.

Q. And do you also have a knowledge of the major companies operating in these fields?

A. Yes, sir.

Q. Can you give us a statement as to the major companies?

A. The United Fuel Gas Company, the Warfield Natural Gas Company, the South Penn Oil Company, the Ohio

Fuel Oil Company, the Hope Natural Gas Company, the Manufacturers Light and Heat Company, the Pittsburgh & West Virginia Gas Company, and various smaller and good companies.

Colonel Wallace:

Q. You differentiate them, then, from larger as being bad?

878

[fol. 3343] A. No, sir.

Judge Rummel:

Q. Well, can you name a few of the smaller good companies that are and have been operating in the production of natural gas within this general territory?

A. Yes, sir.

Q. All right, do so.

A. The present West Virginia Gas Company, the Hamilton Gas Company, the Kentucky-Ohio or the Ohio-Kentucky Gas Company, and the Inland Gas Company, the Louisville Gas & Electric Company and others.

Q. Are you acquainted with the location and character of the natural gas properties held by the United Fuel Gas Company and the Warfield Natural Gas Company?

A. Yes, sir.

Q. Are these properties located within the Appalachian natural gas fields?

A. Yes, sir.

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[fol. 3344] And do natural gas properties of the companies with which you have been connected lie within the same geological belt as the properties of the United Fuel Gas Company and the Warfield Natural Gas Company?

A. Yes, sir.

Q. During your experience have you had occasion to use geological studies in determining the value of properties you had under consideration for purchase for your company?

A. Yes, sir.

Q. Are you familiar with methods employed by geologists in such work and the character of reports made by them?

A. Yes, sir.

Q. During your experience have you acquired knowledge of the continuity of the different producing sands within this territory where the United Fuel Gas Company and the Warfield Natural Gas Company are?

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[fol. 3345] A. Yes, sir.

Q. Have you information and general knowledge as to the characteristics of the several producing sands?

A. Yes, sir.

Q. Will you please state for the record the names of some of the sands that produce natural gas within this general territory where the United Fuel Gas Company and the Warfield Natural Gas Company are operating?

A. The Salt sand, the Maxton, the Big Lime, the Injun, the Weir, the Berea, the Brown Shale.

Q. Will you please state, from what sands you have mentioned the larger part of the gas production of the United Fuel Gas Company and the Warfield Natural Gas Company is obtained?

A. Yes, sir, from the Injun, the Weir and Berea. They get gas from other sands but those are the three major formations.

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[fol. 3346] Q. In your business experience, which you have just described, I will ask you whether you have acquired knowledge of the market value of the gas leaseholds operated in the territory in which the United Fuel Gas Company and the Warfield Natural Gas Company are operating?

A. Yes, sir.

Q. Does that knowledge cover both proven and undeveloped territory?

A. Yes, sir.

Q. Are you acquainted, either from personal knowledge or from your experience, concerning the rock pressures, the producing sands and the production of wells, and the presence of water in the sands, and like information concerning the wells generally within this territory?

A. Yes, sir.

Q. Have you been furnished with maps and data gener-

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[fol. 3347] al-y with respect to the gas leaseholds and the fee gas lands of the United Fuel Gas Company and the Warfield Natural Gas Company?

A. Yes, sir.

Q. Will you please state what is the character of the title of the companies to this gas territory?

A. They hold the majority of it under a leasehold for oil and gas,—and oil and gas lease. They have approximately 50,000 acres of fee land in fee, but most of it is leasehold.

Q. Are you familiar with what we call typical oil and gas leases, and are these in substantially the general forms?

A. Yes, sir. There are various kinds of provision in them, but they are substantially what we call the standard oil and gas lease.

Q. Have you been furnished with photostatic copy of typical leases held by these companies?

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[fol. 3348] A. Yes, sir.

Q. Have you examined them?

A. Yes, sir.

Q. Have you been furnished with a detailed list of the gas lands owned by the companies as of December 31, 1928?

A. Yes, sir, very completely.

Q. And have you examined that list of gas lands?

A. Yes, sir.

Q. Is that the information contained in the three volumes filed in this case and that are here before you?

A. Yes, sir.

Q. I will ask whether that list gives you the number of the wells and, if it is a leasehold, the name of the lessors, the date of the conveyance, the form of the grant, the number of acres, the delay rental term, the annual rental term, the annual gas well royalty, the number of wells operated

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[fol. 3349] on each lease, and the consideration for such lease?

A. Yes, sir, it shows all that.

Q. And I will ask you whether or not in this list embraced within the three volumes, whether the summary shows that it is classified by counties and, further, classified by magisterial districts?

A. Yes, sir, it does.

Q. I will ask you whether you have been given a summary of the gas wells owned by the United Fuel Gas Company and the Warfield Natural Gas Company as of De-

cember 31, 1928, classified by counties and classified by magisterial districts, in which is set out information as to the number of wells, the land owner, the date of the lease, the term of the grant, the number of acres, the date the well was completed, the sand formation, where the gas is produced, the thickness of the sand and the depth of the well?

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[fol. 3350] A. Yes, sir.

Q. Does it also give you information as to the initial open flow per M. cu. Ft.?

A. Yes, sir.

Q. And the initial rock pressure, the rock pressure in 1928, the average line pressure in 1928, and the average line pressure, including the volume in each well, and the total number of days each well was used during the year 1928?

A. Yes, sir.

Q. And have you examined all of this data and considered it in the investigation you have made here as to the value that you are about to place upon the leaseholds of these companies?

A. Yes, sir, I have.

Q. I will ask you whether this summary of these wells also include information as to the calculated production for the year 1928?

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[fol. 3351] A. Yes, sir, it does.

Q. And the corrected production for the year 1928, and the average calculated daily production for the year 1928, in M Cu. Ft. and the annual capacity of each well as used, the average number of days in use of the 266 days for the year 1928?

A. Yes, sir.

Q. I believe you stated you examined and studied this summary?

A. Yes, sir.

Q. I will ask you whether you have examined Exhibit No. 19, showing the compressor horsepower by years from 1914 to 1928, inclusive?

A. Yes, sir.

Q. Have you examined Exhibit No. 21, being a graph showing or a statement showing the number of wells drilled

and the average production for each year from 1918 to 1928?

A. Yes, sir.

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[fol. 3352] Q. Have you examined Exhibit No. 25, which is a graph showing the number of producing walls and the average investment per well?

A. Yes, sir.

Q. Have you examined Exhibit No. 26, showing the gas produced by these wells from the year 1918 to 1928?

A. Yes, sir.

Q. Have you examined Exhibit No. 27, showing the gas produced by years from 1914 to 1928?

A. Yes, sir.

Q. Have you examined an exhibit showing the gas purchased under contract with outside producers and gas produced by the United Fuel Gas Company and the Warfield Natural Gas Company?

A. Yes, sir, I have.

Q. Have you examined Exhibits 44 and 45, which set out certain producing well data for each of the years from 1914 to 1928?

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[fol. 3353] A. Yes, sir.

Q. I will ask you if you have examined the maps of the United Fuel Gas Company and the Warfield Natural Gas Company, showing the classification of gas lands as made by Mr. Ralph E. Davis?

A. Yes, sir, I have.

Q. Are you fully advised as to the basis of the classification of the companies' gas lands as made by Mr. Davis?

A. Yes, sir.

Q. Have you informed yourself as to the number of acres in each class made by Mr. Davis?

A. Yes, sir.

Q. And also in the several miscellaneous pools as indicated by him?

A. Yes, sir.

Q. Have you examined the Exhibit No. 67, which contain the maps showing the classifications of gas lands as made by Mr. Davis?

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[fol. 3354] A. Yes, sir.

Q. Have you made such an examination in respect to the offset wells or the competitive drilling generally in this field?

A. Yes, sir.

Q. Mr. Blair, I will ask you what additional information, if any, could be obtained, in addition to the knowledge which you already have, with respect to the properties of these companies by going out and visiting the territory or the localities where the territory is operated?

A. There is no information that you could get in any more detailed shape and in better condition than I have looked over on this property. I have looked over many properties but I never had near as much information to go by in purchasing and selling properties as you have here.

Q. I will ask you whether a number of the properties

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[fol. 3335] you say you acquired have been recently sold?

A. Yes, sir.

Q. Were they examined by the respective purchasers prior to their sale and transfer?

A. Yes, sir.

Q. Were you in touch with those making the examinations and investigations?

A. Yes, sir.

Q. I will ask you to [illegible] whether the information obtained by these examinations made by the representatives of the purchasers of the properties which you sold was of the same character of information which you now have before you?

A. It didn't contain as much. The same character of information but not as extensive and not as complete.

Q. I will ask you if you can suggest any more certain method of obtaining information pertaining to the territory of these companies than the data furnished you, in

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[fol. 3336] addition to your own personal knowledge?

A. No, sir, you couldn't get the data you have by going out and doing it yourself, because you have all the records as far as it goes, and in this way you have the information from the time it started and have the history to go by.

Q. Does the data and information relating to the gas territory of these companies, in addition to your personal knowledge of the gas fields and the gas sands, in which the

territory is located, contain sufficient facts or information you would want, if you were considering the purchase of gas territory yourself or for your company or one of your companies?

A. Yes, sir, I would be perfectly satisfied in buying the leaseholds on the information you have there. The physical properties you would have to go out and look at but for the leaseholds, the information is complete.

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[fol. 3357] Q. Is there any additional data you could suggest that would be useful in determining the market value of the leaseholds of these companies?

A. No, sir.

Q. Are you personally familiar with the market value of gas leases similar in terms to those held by these companies in the fields in which their properties are located?

A. Yes, sir, most of them I am; in general I am.

Q. You have had personal knowledge of sales within the last year or two?

A. Yes, sir.

Q. What personal knowledge, then, have you had within the last three or four years of sales of natural gas lands within the territory now under discussion?

A. Well, we have sold properties in these various locali-

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[fol. 3358] ties in the last four years and prior to that we sold properties.

Q. You have testified that you organized several companies and had acquired producing properties, and also that you had developed properties. Will you now please state what properties belong to any of these companies have been disposed of during the past three or four years?

A. The Monickle Gas Company, the Commercial Gas Company, the Grant Gas Company; then, a group of other properties that have been put into the same company, that went into the same sale. I know the figures on companies in which we were interested in the sale, but those were the properties I was interested in personally.

Q. Will you just tell us the names of these properties you were interested in?

A. The Wackato Oil & Gas Company.

Q. That was not one of your companies?

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[fol. 3359] A. No, sir.

Q. Now, go ahead, Mr. Blair.

A. I know by very reliable information, through the men that were interested in it, of the American Rolling Mill Company sale. These are the principal ones, with acreage held here.

Q. Was all the acreage held by these companies developed or was some of it undeveloped, similar to acreage in classes 3 and 4?

A. It was not all developed—developed and undeveloped property and prospective and various classes, as they are divided.

Q. Can you tell us the location of the properties sold by you or your companies?

A. Yes, sir, they were in Cabell and Lincoln Counties.

Q. Was any of the property in Logan County?

A. The Wackato Oil & Gas Company was in Logan.

Q. Were you interested in that company?

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[fol. 3360] A. No, sir, I was not interested in it.

Q. Now, how many acres did the Monickle Gas Company own?

A. I did know, of course, at that time, but it now runs in my mind about 2400 or 2500 acres of proven territory.

Q. Excluding the Wackato Oil & Gas Company, about what was the number of acres held by all these companies?

A. Oh, around 15,000 acres.

Q. I will ask you whether you have worked out the price per acre you received for these properties, after excluding wells and well equipment?

A. Yes, sir.

Q. Can you tell us about what you received for the proven acreage sold by your companies?

Colonel Wallace: That is objected to, for the reason it is too general.

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[fol. 3361] (No ruling on the objection.)

Judge Rummel: Well, we will — a little more specific. What did you ascertain to be the net price you received for the acreage of the Monickle Gas Company, after excluding all wells and well equipment, and after payment of all obligations of the company?

A. Seventy-six dollars an acre.

Colonel Wallace:

Q. Did you sell the acreage or sell the stock of the Monickle Gas Company?

A. No, we sold the stock.

Judge Rummel:

Q. Is the price you named the net price, after deducting all liabilities and the investment in wells and equipment?

Colonel Wallace: Objected to.

(The objection was overruled.)

A. Yes, sir.

Q. Can you give us at what rate per acre you received for the acreage in the several classes?

A. It runs from around $76.00 to $190.00 an acre.

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[fol. 3362] Q. I will ask you to give us an idea as to the relative value of the acreage which your companies hold compared with the acreage owned by the United Fuel Gas Company and the Warfield Natural Gas Company, particularly with reference to the acreage held by these companies in Cabell and Lincoln Counties.

Colonel Wallace: Well, we want to object to that for the reason they haven't shown the acreage owned.

Judge Ritz: We have shown where the acreage is, I think.

Commissioner Nethken: I don't know how my associates may feel about this kind of testimony, but it seems to me we are going pretty far afield in showing the sale price of these leases, unless all the details surrounding the sale is made a part of the record in this case.

Judge Rummel: We can only make one step at a time, Mr. Commissioner.

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[fol. 3363] Mr. Scott: May I ask when this particular sale was made?

The Witness: About July, 1927.

Q. Nearly two years ago?

A. Yes, sir.

(The objection was overruled.)

Colonel Wallace: Would you say seriously that a man could express an opinion as to the comparative value of

leases he might hold in Cabell and Lincoln Counties with the leases owned by this company in Roane and that it would have any evidential value?

Commissioner Divine: Yes, sir, I think so. He is an oil and gas man and he has been telling us all about this matter.

The Witness: I didn't take that basi sof my judgment on the value of the acreage we are talking about. That gave me some of my opinion, but it was not the controlling factor in my judgment of the values of these properties of the United Fuel Gas Company.

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[fol. 3364] Commissioner Nethken: Well, I think you misunderstand my question, Mr. Blair. I wasn't referring to the values you fixed here and testified about but the properties themselves, how would you say they compare with the values of the properties you sold, the value of the United Fuel Gas Company in Cabell and Lincoln Counties?

A. I would say one of the properties was probably as good as some of the United Fuel properties: I would say one was not as good as the average Fuel Company's property in that territory, and I would say the other was about the average.

Q. And the price you received you say ranged from what figure?

A. From $76.00 to $190.00 I think.

Q. And your property that you say you received $190.00 an acre for, is that the property that is or is not on a par with the holdings of these companies in the two fields?

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[fol. 3365] A. I would say it was about like a lot of the United Fuel Gas Company's holdings in that section.

Q. Have you operated in any other parts of the territory where the properties of these companies are?

A. Yes, sir.

Q. What part of the territory in Ritchie, Roane and Kanawha Counties are you acquainted with the character of the sands and the gas content? I will change that, and ask you are you acquainted with the character of the sands and the gas contents of the properties in Roane County?

A. Yes, sir.

Q. And in the Spencer pool?

A. Yes, sir.

Q. Well, how will the properties which you sold compare as to value as to the properties in the Spencer and Roane Field which are owned by the United Fuel Gas Company?

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[fol. 3366] A. The Spencer pool would be, I should judge, about like other of the properties we sold, about like the one I was talking about, the $76.00, I would say the Spencer pool is about in that same condition.

Judge Rummel:

Q. Speaking generally, are the terms and conditions of the leases involved in the transactions with which you have been interested similar in character with the terms and conditions of the leases of the United Fuel and Warfield Natural Gas Companies?

Colonel Wallace: That is objected to.

Chairman Coffman: Has it been shown that this witness is familiar with the type of leases of the respondent company?

Judge Rummel: Yes, sir. He said he was familiar with the exhibit of typical leases. We know he is familiar with the terms of the leases held by his own company; and,

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[fol. 3367] therefore, I asked him whether the leases of his company were similar in terms and so forth as the leases of the United Fuel and Warfield Companies.

Colonel Wallace: We object.

(The objection was overruled.)

The Witness: Yes, sir, in general, the form of the oil and gas leases are about the same in this territory as the gas territory of the United Fuel Gas Company and the Warfield Natural Gas Company, described in the information you have described.

Judge Rummel:

Q. Would there, in your opinion, be a market value for the leaseholds of the applicant company?

A. Yes, sir.

Q. From your experience in the natural gas business, and your personal knowledge of the condition of the properties, and from the data and the records which have been furnished you, and which you have studied, taking into

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[fol. 3368] consideration all the factors and circumstances concerning which you have testified, are you able to express an opinion as to the fair present market value of the gas leaseholds of the United Fuel Gas Company, between a willing buyer and a willing seller, excluding the value of the wells, well equipment and the physical equipment of every kind?

A. Yes, sir.

Q. Have you formed such an opinion as to the value of the proven acreage contained in Class 1?

A. I didn't separate Class 1 and Class 2. Class 1 and Class 2, in my estimation, are about of the same value. Class 1 may be a little more valuable in the way of showing what there is in Class 2, but not a great deal. You have wells in Class 2 and the wells are not pulled in Class No. 2, and I think if the No. 1 has advantage over No. 2 it is taken up by that factor, therefore I classed 1 and 2 as the same value.

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[fol. 3369] Q. Well, then, what is your idea of the market value of the Classes 1 and 2?

Colonel Wallace: We object.

Chairman Coffman: The Commission understands that the objections of counsel for protestants to the question to this witness, which seeks his opinion of the market value of the respondents' gas rights, and objections to similar questions to the witnesses Larner and Dally on yesterday, constitute a challenge to the competency of such testimony generally, and of its evidential value in a rate case if it is otherwise admissible. The Commission does not care at this time to pass on the objections to this testimony. It is heard as a part of the respondents' theory of valuation of its gas rights. The Commission must necessarily determine the value of this testimony upon its final order in this

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[fol. 3370] case, and this statement may stand for any other testimony that may be offered along this line.

Colonel Wallace: Well, to preserve the record, we will ask to note an exception.

Mr. Scott: Your statement means that we may have the benefit of our objection at a later date?

Chairman Coffman: Yes, sir.

Mr. Scott: What I had in mind is that we would indicate to the stenographer an objection and go right along, after these questions?

Chairman Coffman: Yes, sir, that is all right.

Chairman Coffman: The witness may answer the question.

The Witness: From $135.00 per acre to $145.00 per acre, depending on the buyer and the seller getting together.

Judge Rummel:

Q. What is your value, and what do you consider the market value of the acreage in Class 3?

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[fol. 3371] A. Class 3 I think is worth about $3.00 an acre.

Q. What have you to say as to Class 4?

A. Class 4 I would say about $1.50.

Q. Have you made a computation as to the total amount of the four classes?

A. No. I have the acreage here. I can do that.

Judge Rummel: I wish you would and read it into the record.

A. The first and second class acreage at $135.00 an acre, would amount to $48,369,695; the class 3 acreage at $3.00 an acre would amount to $310,950.00; the class 4 acreage at $1.50 an acre, would amount to $1,703,161.00; the total amount for all acreage would be $50,393,806.00. I will say, however, I havent checked those figures.

Chairman Coffman: What would you say of this class of property during the last three or four years, has there been much change?

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[fol. 3372] A. Yes, sir, I would think so; there has been much more activity and more demand for gas property now than four years ago.

Q. How about three years ago?

A. Yes, sir, more than three years ago. The last two years people have been trying to get gas territory and gas production.

Q. You mean the market has not changed much in the last two years?

A. Yes, sir, I would say it has, because money has been harder to get in the last two years, and there has been a big demand for gas properties.

Judge Rummel:

Q. In your judgment, is there a market for the properties of the United Fuel Gas Company and the Warfield Natural Gas Company at the prices which you have named here?

A. Yes, sir.

Q. Is there a demand for gas leaseholds in West Virginia

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[fol. 3373] and Kentucky at the present time, and was there such a demand on December 31, 1928?

A. Yes, sir, there is a big demand. People are coming to us all the time and asking where they can get acreage, and what you can get acreage for, and all that—there is a great demand in the Appalachian field today.

Q. Did you include anything in your valuation on account of the oil rights included in these leases?

A. No, sir.

Q. The prices you have fixed for this acreage are based upon the purchaser being willing to assume the terms and obligations contained in the leases?

A. Oh, yes, sir, that always goes with the sale.

Q. I will ask you to express an opinion, if you can, as to whether the acreage which this company owns, and which is classified under Classes 3 and 4, held by these companies is either large or small?

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[fol. 3374] A. It is very large in acreage but not large for reserve territory. A large company of this kind must have acreage or the whole plant is jeopardized; it must have territory to drill and to advance and to prosecute, and must have that even if it proves no good, it must have it to back themselves up, by taking a chance, and the whole plant is gone if they don't, and they must have very large acreage, because they have a very large investment in pipe lines,

machinery and pumps, and they have to have a large acreage. I don't know that you could say the acreage is too small. It looks like a field as large as this, 1,000,000, I believe 1,100,000 acres, is not too much for this company to have.

Q. Would you say this acreage was not out of alignment with the proven reserves of the United Fuel Gas Company and the Warfield Natural Gas Company?

A. In my opinion it is not, no, sir.

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[fol. 3375] Cross-examination.

By Col. Wallace:

Q. Did you ever operate a public utility?

A. No, sir.

Q. Did you ever operate a pipe line company?

A. Yes, sir, I have been interested in pipe line companies, small ones.

Q. You have never had anything to do with properties as large as the United Fuel Gas Company?

A. No, sir.

Q. Then, your opinion in regard to that company is based on the same opinion a layman might have?

A. No, sir, I think not.

Q. You never operated companies as large as the United Fuel Gas Company?

A. No, sir.

Q. Now, you have given some of your history. You be-

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[fol. 3376] gun with the Standard Fuel Company, which you said in a general way had three or four million dollars invested in it. What was the cash invested in that company?

A. I really can't remember, it has been a long time ago; the Standard Fuel Company was organized in 1911, and I left them in 1915, and I really don't remember.

Q. What did you do with that company?

A. I was president and general manager.

Q. And you didn't know anything about its real money investment?

A. No, sir.

Q. Did it own any land in fee?

A. Yes, sir, it did.

Q. Where?
A. Up here on Coal River.
Q. How much?
A. About 13,000 acres.

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[fol. 3377] Q. What did it own in Cabell?
A. In Cabell County the company had had about 10,000 acres of oil and gas rights.
Q. In what district?
A. Well, what we call around Milton, the Mud River District.
Q. What became of that acreage?
A. It was sold.
Q. To whom and when?
A. I think it was sold about 1914 or 1915.
Q. To whom?
A. To a corporation and it has been so long ago I really can't remember that—somebody in New York—the Empire Petroleum Corporation.
Q. What did you have in Ritchie County?
A. An oil lease.
Q. And in Roane?
A. In Roane we had approximately 6,000 acres of oil and gas leases.

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[fol. 3378] Q. What became of those?
A. They were sold.
Q. You didn't operate them at all?
A. Yes, sir, three or four years.
Q. Did you sell it for the oil or the gas?
A. We sold the entire lease.
Q. To whom?
A. To the same company.
Q. Who is the Empire Petroleum Corporation?
A. I can't tell you that.

(Reporter Cain here relieved Reporter Stanard.)

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[fol. 3379] Q. What was your connection with William Seymore Edwards?
A. None; I worked for the trustees.
Q. What did you do?
A. General Manager.

Q. What were your duties?

A. I just looked after the whole works.

Q. He had some coal property, didn't he?

A. He had some coal and timber and oil and gas properties.

Q. Now, this Monickle company, who organized that company?

A. I organized it.

Q. What capital, if any, was paid in on that?

A. I would have to get the figures; I can't remember the details.

Q. How much acreage did you have?

A. I was the operating man and the attorneys fixed up the company.

Q. How much acreage did you have?

A. About 2,500 acres.

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[fol. 3380] Q. That is after you got that acreage you made a contract with the International Nickle Company who advanced the funds to build the pipe line to your gas?

A. Yes, sir.

Q. And then you sold some surplus gas to the Owens Bottle plant?

A. No, sir, not the Monickle.

Q. And afterwards was the Monickle sold to the Commercial?

A. No, sir, it was sold to the West Virginia Gas Corporation.

Q. And when you sold you got stock for the Monickle stock, didn't you?

A. I didn't own any Monickle stock at the time.

Q. And had no financial interest in it?

A. And didn't have any myself, no, sir.

Q. As a matter of fact the Monickle was taken over by the West Virginia Gas Company and it was a stock transaction and not a monetary consideration?

A. No, sir, it was part money and part stock.

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[fol. 3381] Q. How much money and how much stock?

A. It was about 60 per cent one and 40 per cent of the other, I think. There was a difference, some got one thing and some got another and I can't remember the details.

Q. There was no sale at all of the leases separate from the company?

A. No, sir.

Q. And it was sold subject to the contract with the International Nickle Company?

A. Yes, sir.

Q. Including the pipe line of 14 miles?

A. Yes, sir.

Q. Now, what about the Commercial, where did they have any acreage?

A. About 9,000 acres.

Q. Whereabouts?

A. In Cabell County in the Branchland field.

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[fol. 3382] Q. What money was put into that company?

A. Part of that was in Wayne County?

Q. What money was paid into that company?

A. About $20,000 I think.

Q. That was all the capital ever paid in?

A. Yes, sir.

Q. And that company has now been turned over to whom?

A. The West Virginia Gas Corporation.

Q. That was turned over for stock, was it?

A. Part stock and part cash.

Q. What was the proportion?

A. Some got one and some another.

Q. You can't tell the ratio?

A. I got 60 per cent stock—60 per cent cash and 40 per cent stock.

Q. Had you invested any money in cash?

A. Yes, sir.

Q. Now, who operates the Monickle company?

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[fol. 3383] A. The West Virginia Gas Corporation.

Q. Who is this Grant Gas Company?

A. That is a company we organized in Lincoln County.

Q. Who do you mean when you say we?

A. I was instrumental in it.

Q. What capital was pain in on that?

A. About—wait till I see, I think around $15,000.

Q. How much acreage have you there?

A. The acreage is about 1400.

Q. Did you develop it all?

A. Yes, sir.
Q. Is it being operated now?
A. Yes, sir.
Q. Who do you sell the gas to?
A. We are not operating it now; we sold it.
Q. Who operates it now?
A. The Hamilton Gas Company; they sell gas to the United Fuel.
Q. This gas producing company, what was that?

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[fol. 3384] A. That was a little company out in Lincoln County.
Q. What did they have in acreage?
A. Maybe a thousand acres.
Q. Who did you sell that to?
A. We sold it to a fellow named J. L. Perdue.
Q. Who was he representing?
A. I think he bought it personally.
Q. What is he doing with the product?
A. He is selling to the Dunbar Gas Company.
Q. That is the one that operates in Charleston?
A. It is owned by the United Fuel.
Q. It is a utility?
A. Yes, sir.
Q. Now, this Beaver Creek Oil and Gas Company?
A. That is Kentucky property. That was sold five or six years ago.
Q. You have no real way of telling us how much per acre in real dollars any of these companies got for their hold-

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[fol. 3385] ings, do you?
A. No, sir, only your best judgment.
Q. Now, you speak of the better class small companies, by that I presume you mean virtuous?
A. Yes, sir.
Q. The Hamilton Gas Company, it is one of those small companies, where does it sell gas?
A. I can't tell you except what I hear.
Q. Mr. Larner is the gentleman who knows about that?
A. Yes, sir.
Q. The Inland Gas Company doesn't operate in West Virginia, does it?
A. No, sir.

Q. And the Louisville Gas Company operates in Kentucky?

A. Yes, sir.

Q. That is a pretty big concern so that would not count in the small companies, the virtuous class, but in the big ones?

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[fol. 3386] A. Yes, sir.

Q. You say that you have employed geologists. Whom have you employed and where?

A. Mr. Reger in the northern part of the State.

Q. Who did you have with the Grant Gas Company?

A. Nobody.

Q. With the Gas Producing Company?

A. Nobody.

Q. And the Beaver Creek Gas Company?

A. We had Mr. Jillson of Kentucky.

Q. In figuring values did either of these gentlemen give you the benefit of Boyle's law as to the content of gas?

A. Yes, I think they did.

Q. When was that?

A. Oh, that was a long time ago in Kentucky.

Q. Did they ever give you a report or study based upon Boyle's law?

A. Yes, sir, they gave us reports of the gas content.

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[fol. 3387] Q. Did you ever know of a practical oil man using that method prior to the time Mr. Davis mentioned it here?

A. Yes, sir.

Q. Will you bring out a study of that based upon Boyle's law on any operation you have ever purchased?

A. I will see what I can find.

Q. I am asking one that you have had.

A. It would be simply a letter as so much for oil or gas.

Q. But it did not use Boyle's law in determining the content?

A. No, these were in property where you couldn't apply Boyle's law. In undeveloped territory I do my own geology on that.

Q. And that is practically true of all oil and gas men?

A. I don't think so.

Q. You say you know the market value of these leases. What data do you use in determining the market value of gas leases?

A. I use my own experiences in buying and selling and 923

[fol. 3388] being in the field and knowing what other people are buying and selling and my general information and experience in the Appalachian field for around eighteen years.

Q. Who is your compeer in the Lincoln field for gas, your compeer when you got out to buy gas?

A. Well, there are more than one in the Lincoln field——

Q. Who?

A. Cash Wolf.

Q. He works for the United Fuel Gas Company, doesn't he?

A. No, sir, I don't think so. I just know him out there.

Judge Ritz: He works the United Fuel.

Colonel Wallace: I said he works for them.

Q. Who else?

A. Bryan McComas and old man Sweetland.

Q. Are any of these people operating?

A. Absolutely.

Q. Who do they sell gas to?

A. To the United Fuel and South Penn and sell gas to 924

[fol. 3389] anybody that will buy.

Q. Now, the South Penn and United Fuel, their gas always finds its way to a utility?

A. Yes, sir.

Q. So that the competition by the Utility companies or the people who buy and sell fix the value of the gas leases bought and sold?

A. Yes, sir.

Q. Eliminating that competition there wouldn't be a great deal of value or competition between operators in this particular field?

A. Not if you couldn't sell the gas.

Q. And the principal men that buy it are the utilities?

A. Yes, sir.

Q. Now, you have undertaken to compare your leases with the leases of the United Fuel Gas Company. You were in the room yesterday and heard the testimony?

A. Yes, sir.

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[fol. 3390] Q. There were I think four separate general subdivisions of the acreage of the United Fuel. Now, which one of the subdivisions of the United Fuel Gas Company would you say your leases you have sold compare?

A. Well, I don't know. All of one property down there would be compared to the Branchland field.

Q. I am talking about the type of lease of the United Fuel, which group would you compare your leases with?

A. With the general run of mine of the United Fuel acreage?

Q. What I was trying to get at, which particular type of the United Fuel Gas Company leases did your leases approximate?

A. The $300 an acre a year for a gas well and $1.00 rental would be about our standard.

Q. What would you say about drilling for off-set wells?

A. There is nothing said in the lease about that. I don't think it makes any difference. You have to drill off-set wells anyway if you want to protect your property.

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[fol. 3391] Q. You said you operated in Roane, Ritchie and Kanawha Counties. What was your operation in Roane County?

A. In Roane County we operated about 135 oil wells and about 12 or 13 gas wells.

Q. Who was we?

A. I was the manager.

Q. What company?

A. The Eastern Petroleum Company.

Q. To whom did you sell gas?

A. We sold gas to the—we didn't sell our gas at the time I was there, it was shut in. No, I will tell you—that is back in the old contract of yours—the Empire Petroleum Company.

Q. How many years ago has that been?

A. That was about 17, 18 and 19, along in there.

Q. Have you had any experience since that?

A. No, sir, we sold out.

Q. Now, in the Ritchie field when did you operate there?

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[fol. 3392] A. About 1914 or 1915.

Q. You have had no experience there since that time?
A. No, sir.
Q. How about the Kanawha Fields?
A. We have not operated in the Kanawha field for about two or two and one-half years.
Q. In giving your opinion a while back you said that the Class 1 and 2 leases should be put in the same class and gave as a reason therefore that No. 2 has not been pulled as much as No. 1 class. How do you account for the fact it has been testified here that in 1923 they drilled 812.5 wells at 36 billion feet production and in 1928 they had 1686 wells with 39 to 40 billion feet. How do you account for that production?
A. Why, that is simply a natural gas decline in the Appalachian field.

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[fol. 3393] Q. Everything has been going down?
A. It must be. 1911 we sold gas for 3 cents. We never thought of drilling a well, we didn't try it, if we didn't think we would get several mill-, five or six million *wells* were not unusual.
Q. Where did you ever get five or six million feet?
A. Several places.
Q. Give us the places please?
A. Out there in Roane County.
Q. You got those wells in Roane County?
A. Yes, sir.
Q. Anywhere else?
A. In Kentucky we got 4, 5 and 6 million feet wells.
Q. What was the United Fuel Gas Company getting at that time?
A. They were getting about the same general average.
Q. Now, you have been talking about sales of property. The sale you were talking about to the American Rolling Mills, they had some acreage of their own, did they not?
[fol. 3394] A. Yes, sir.

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Q. And they turned it over to the Kentucky Fuel for some of its bonds plus a contract to give it preferential supply?
A. That is what I understand.
Q. The Kentucky Fuel is supplying the town of Ashland for domestic and industrial gas, is it not?

A. Part of the property; I don't know.

Q. But the sale of the transfer of the gas acreage of the American Rolling Mills was a stock and bond transaction and not a cash sale?

A. They got some cash money out of that deal according to my information; I wasn't in on it; I don't know.

Q. As a matter of fact the Kentucky Fuel is a subsidiary of the Hope Engineering Company and is a selling company and sells part of the gas of the Inland Gas Company?

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[fol. 3395] A. I think so.

Q. And they are seeking markets as public utilities in Kentucky and Ohio?

A. I didn't know that. You have better information than I have. I don't believe they can do that under their contracts. That is the reason they took the industrial load; they took the industrial in preference to the domestic.

Q. You have expressed an opinion that there would be a market and demand for the United Fuel property if put on the market as a whole. How would that property be handled as a whole or could it be handled as a whole?

A. I should think very easily. Some investment company could take it over just like they have taken over a lot of property.

Q. What could it be utilized for?

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[fol. 3396] A. To go ahead with the business.

Q. In other words, it would have to be for a utility?

A. I don't think you can shut this gas off and take it to Pennsylvania or Ohio.

Q. Then the demand would be as a public utility as a going concern?

A. Yes, sir.

Q. And the value you have put on it is based on that [illegible]?

A. Yes, sir.

Q. And the leases in connection with that plant you valued because it has a value as a public utility?

A. No, sir, not exactly.

Q. You say you need it as a reserve?

A. Absolutely, but that is part of your concern and you have to keep that reserve. The other fellow will pay money for that acreage and that is what it is worth.

Q. That is what I am saying, the other fellow would pay
[fol. 3397] his money for it, the value you fix, because this
932
is a public utility business?

Judge Rummel: We think that is not a fair question because only about 20 per cent of the business of these companies is regulated and no one knows that any better than Colonel Wallace.

Colonel Wallace: We submit that is important and we further say that a witness on cross-examination is not entitled to such protection. You can address your remarks to the Court and not tell the witness what he shall say.

Chairman Coffman: Let the witness answer.

The Witness: No, sir.

Colonel Wallace:

Q. What would they do with it then if they didn't use it in public utility business?

A. They would have to go on with the business of the company if they bought the lands. They would probably have to keep the domestic business going.

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[fol. 3398] Q. Just assume for the purpose of this question that you didn't have any public utility business, could you dispose of this gas acreage without finding a big utility to take it over? I mean the gas acreage of the United Fuel Gas Company?

Judge Rummel: We object inasmuch as he does not confine the utility business to a company in West Virginia.

Chairman Coffman: Let him answer.

A. I don't quite understand what you mean. I don't know whether you could or not.

Q. You said a while ago there was a market for the gas acreage of the United Fuel Gas Company?

A. Yes, sir.

Q. Now, where is that market?

A. The market of the United Fuel is to sell it to somebody else. I imagine some other people in the utility business are in the market for gas, or whatever they do with
934
it, either utility or industrial. I suppose they could pipe
[fol. 3399] it into Baltimore or New York and make money.

Q. You said in answer to a question there is a market for the United Fuel Gas and a demand for it. Just tell where the market is and what market you had in mind in reply to that question?

A. Any banking house that is interested in oil and gas properties, they will not organize a corporation but they will certainly pay the price. They will be glad to take it at $135 and they will sell it in thirty days.

Q. To whom?

A. I would have to scout around some.

Q. What would that gas be utilized for?

A. I don't know what they would do with it.

Q. Don't you know as a matter of fact it would have to be turned over to one of the big utility companies?

A. I imagine so.

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[fol. 3400] Q. And that fact was the basis of your answer as to the market value of these gas lands?

A. No, sir.

Colonel Wallace: That is all.

Commissioner Nethken:

Q. Mr. Blair, in Mason County, for instance, if you were going to drill a well and knew just how much gas you would get when you drilled a well, what quantity would you have to have to justify the drilling of the well?

A. In Mason County?

Q. Yes.

A. I would say in Mason County I would like to have a property that I would be assured of getting from 300,000 to 350,000 feet to a well.

Q. You as I understand are engaged in the business of drilling wells?

A. Yes, sir.

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[fol. 3401] Q. And selling gas?

A. Yes, sir.

Q. What difference would there be in the price you could get for gas three miles from a pipe line or close to a pipe line?

A. Well, not long ago we had an instance of that. We sold some gas that was about two miles from a pipe line. We could either lay the line to the pipe line and sell the gas

there at 12 cents at their line or they would lay the line and give us 10 cents. That would be two cents differential.

Q. That was on two miles?

A. Yes, sir, that was two miles away from a line.

Q. Do you still hold the stock that you got from the sale of the Monickle Gas Company?

A. No, sir.

Q. Did you sell that stock?

A. Yes, sir.

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[fol. 3402] Q. What did you get for it?

A. I would be glad to give the Commission that answer but I hate to say what I sold my stock for.

Commissioner Divine:

Q. It is a confidential matter?

A. Yes, sir.

Commissioner ——:

Q. Did you sell it at par?

A. No, sir, I did not. Very much below par.

Commissioner Nethken: That is all.

Judge Rummel:

Q. Some of the stockholders got all cash for their stock?

A. Yes, sir.

Q. And you got 60 per cent cash and 40 per cent stock?

A. Yes, sir.

Commissioner Nethken:

Q. I understood you to say that you got 40 per cent cash and 60 per cent stock?

A. No, sir, 60 per cent cash and 40 per cent stock.

Q. Were you connected with the Monickle Gas Company

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[fol. 3403] when it made the contract with the International Nickle Company?

A. Yes, sir.

Q. Did you make this contract?

A. Yes, sir.

Q. What does that contract provide?

A. In the way of deliveries you mean?

Q. Yes.

A. It provides that we had to give them a minimum of three million feet a day and anything over that they demanded which we had.

Q. In other words, you were to give the total supply if they demanded it?

A. Absolutely, yes, sir. In other words, if we had five million and they only wanted three million we couldn't give it to somebody else, we had to hold it for them.

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[fol. 3404] Q. Then you mean to say you couldn't sell any surplus gas to anybody else?

A. No, sir, it was all reserved for the International Nickle Company.

Colonel Wallace:

Q. Are you right in that? We have your testimony here, the Monickle, you said, agreed to deliver a minimum of two million feet.

A. That was the first contract but the later contract was for three million feet.

Q. You raised it to three million?

A. Yes, sir.

Q. And that 25,000 acres of land you testified to at that time you testified you paid $7.50 an acre for some, $5.00 for some, and some at $10.00, and very little at $10.00?

A. Yes, sir.

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[fol. 3405] Commissioner Nethken:

Q. You said you would want to get or be assured of 350,000 feet. You mean per day?

A. Yes, sir.

Chairman Coffman: Anything further from this witness?

Judge Rummel:

Q. I will ask you whether you have examined Exhibit No. 21 wherein it shows the United Fuel Gas Company drilled 130 wells in 1928 and that the average was 400,000 cubic feet?

A. I think the average was 395,000 feet for all wells.

Colonel Wallace:

Q. How long did you spend examining these records?

A. About three days.

Q. Did you do that as a labor of love or are you employed by the company?

A. As a labor of love, sir.

Commissioner Nethken:

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[fol. 3406] Q. Mr. Blair, you stated, I believe, that you put a value of $1.00 per acre on this acreage?

A. $1.50.

Q. I was speaking of class 4.

A. $1.50 yes, sir.

Q. Would you feel justified in paying a rental of $1.00 a year on gas acreage worth $1.50?

A. Yes, sir, I have done it lots of times.

Q. Do you know how many wells have — drilled in Class 2 territory?

A. In Class 2?

Q. Yes.

A. I don't remember the actual number but it is considerable, a great many of them. I can add them up but there are quite a few in Class 2.

Q. When you say quite a few, how many do you mean?

A. I would have to make a guess unless I look it up. In looking over the maps you can see them spread around.

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[fol. 3407] Q. It has been testified here that there were 25 wells?

A. Then I expect the fellow who testified has counted them.

Q. But you knew that and took that into consideration?

A. Yes, sir. I remember one well especially that I found which looked foolish to class it in class 2. It ought to be in Class 1, but it was out there in the middle of about 100 acres in Class 3.

Q. I might be mistaken, but as I recall, the company hasn't any wells in Class 3 acreage?

A. Not in Class 3, except as I remember all the acreage around it was Class 3 and there was a well.

Mr. Scott:

Q. Where was that particular well?

A. I would have to find it. I have looked at so many records I don't remember the exact place.

Q. You seem to have noted that particular well.

A. It was one of the outstanding things and I can't understand why they classified it so low.

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[fol. 3408] Q. Do you remember what pannel it was in?

A. As it comes to me, it was Kentucky.

Q. Do you know what its production was?

A. It was a good well.

Q. What was it?

A. Around 600,000 feet.

Q. That is the only case in which you seem to differ from the geologist?

A. It seems to me that it should be marked class 3, although there was not much drilling around it.

Q. Do you know what the geologist's reasons were for that?

A. No, sir, I didn't talk to the geologist.

Commissioner Nethken:

Q. Does the location of the well determine its value to some extent?

A. Yes, sir. That is, you mean in its location in the field?

Q. Yes, its location with reference to pipe lines, and so forth?

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[fol. 3409] A. Oh, yes, and the markets, and so forth.

Q. And also the gas that you get from that well?

A. Yes, sir.

Colonel Wallace:

Q. There are no pipe lines in any of these fields except pipe lines transporting gas for utilities, are there?

A. Small ones, not large systems.

Q. And where are there any small ones?

A. There are some in Huntington and some in Kentucky. One to the Owens Bottle Company and one to the International Nickle Company and the Inland Gas Company.

Q. The Inland Gas Company is a utility, isn't it?
A. I don't know that they are but I suppose they are.
Q. And the one you speak of is the Monickle taking gas to the Owens Bottle and International Nickle Company?
A. Yes, sir.

Judge Ritz: The South Penn has a big pipe line.

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[fol. 3410] Colonel Wallace: But its gas goes to public utilities?

A. I don't know. They buy some gas out in Lincoln.

Judge Ritz: The Godfrey L. Cabot has pipe lines that are not used for pipe lines that do sell public utility gas.

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[fol. 3411] From Co. Ex. 102—United Fuel, 1928, Case

Thereupon came E. M. BURDETTE, a witness of lawful age, introduced on behalf of the respondent, who being first duly sworn, testified as follows:

Direct examination.

By Judge Rummel:

Q. Where do you live Mr. Burdette?
A. Charleston, W. Va.
Q. How long have you lived in Charleston?
A. My home has been in Charleston ever since I was two years old; I have been away at different times.
Q. What is your present business connection?
A. I am president of the Baltimore Engineering Company.
Q. And what is the character of the business of this company?
A. We act as engineers—as gas and chemical engineers for clients.

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[fol. 3412] Q. Have you had any training or experience in the natural gas business?
A. I have been interested in the natural gas business for about twenty years in various capacities.

Q. Well, will you just briefly state now what that experience has been, Mr. Burdette?

A. Well, I started in 1909, shortly after I came out of law school, with the Ohio Fuel Oil Company and the United Fuel Gas Company. My first work was in connection with titles, abstracting of titles, and from that I gradually got into the negotiations of purchasing leases. I later was connected with the Central Trust Company of this City, and at the time I was connected with them we were interested in the financing of a number of oil and gas properties in West Virginia. I then sometime later went with A. B. Leach & Company, a banking house of New York, who had

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[fol. 3413] rather extensive oil and gas interests. In 1921 I became interested in and an officer in the Gasoline Recovery Corporation, who were in the business of building gasoline plants on natural gas supplies, and in 1922 the present Baltimore Engineering Corporation was organized and acquired control of the Gasoline Recovery Corporation, and I have been with them ever since.

Q. What experience have you had in the investigation of gas properties with a view of purchasing same, or recommending the purchase of same to your clients or to any of the companies you have been connected with?

A. We have been employed on various occasions on work of that sort, and I have had some personal experience outside of the company employment.

Q. Has that experience been along the lines of the investigation of properties in any of the natural gas fields in the Appalachian territory?

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[fol. 3414] A. It has, among others.

Q. Do you have a general knowledge of the Appalachian gas fields in West Virginia?

A. I have.

Q. And have you a general knowledge of the operations being carried on by the several companies in the Appalachian field?

A. I have.

Q. Can you tell us some of the companies that are operating in this field?

A. I can.

Q. Will you proceed to do so?

A. Well, the Hope Natural Gas Company, the Carnegie Natural Gas Company, the Manufacturers Light and Heat Company, the Pittsburgh & West Virginia, the Cumberland & Allegheny Gas Company, the Monongahela West Penn Public Service Company, the South Penn Oil Company, Godfrey L. Cabot, the West Virginia Gas Company;

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[fol. 3415] the Ohio Valley Gas Corporation, the Inland Gas Company in Kentucky, and the Louisville Gas & Electric Company in Kentucky.

Q. Are you acquainted with the location and character of the gas properties held by the United Fuel Gas Company and the Warfield Natural Gas Company?

A. I am.

Q. Do the properties of the companies which you have examined, either directly or under your personal direction by the Baltimore Engineering Corporation, come within the same geological belt as the properties of the United Fuel Gas Company and the Warfield Natural Gas Company?

A. Some of them.

Q. Do you maintain an organization of engineers and other skilled persons qualified in passing upon properties?

A. We do.

Q. Have you acquired a knowledge of the producing

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[fol. 3416] sands through the territory in which the United Fuel Gas Company and the Warfield Natural Gas Company are operating?

A. I have.

Q. Will you please just state for the record what sands are producing natural gas in this particular territory?

A. Well, the Salt sand, the Maxton sand, the Big Lime, the Big Injun, the Weir sand, the Berea and the Shale.

Q. Which of these sands predominate, if you know, in the territory owned by the United Fuel Gas Company and the Warfield Natural Gas Company?

A. The Big Injun.

Q. And which is next in line of productivity?

A. The Berea.

Q. I will ask you whether, in your business experience, you have acquired knowledge of the market value gas lease-

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[fol. 3417] holds in the territory which the United Fuel Gas

Company and the Warfield Natural Gas Company are operating?

A. I have.

Q. I will ask you whether you have a knowledge of sales of developed gas territory in which these gas companies are operating?

A. I have, in a general way.

Q. Do you have a personal knowledge of the rock pressures of the producing sands, the production of wells, the presence of water in the sands and like information of the gas territory in which the United Fuel Gas Company and the Warfield Natural Gas Company are conducting their operations and producing natural gas?

A. Well, I have a general knowledge, and the information is available and under my control.

Q. I will ask you whether you have been furnished with maps and data generally with respect to the gas leaseholds

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[fol. 3418] of these two companies?

A. I have.

Q. I will ask you when this data was first given to you, and I will ask you whether you have examined and studied the same?

A. The data was first given to me about a month ago, and during the intervening time I have examined it and studied it.

Q. Does this data show the character of the titles of the companies to this gas territory?

A. It does.

Q. What is the title?

A. Well, they have two titles, two types of title, leaseholds and in some cases fee title.

Q. Have you been furnished with photostatic copies of typical leases held by the United Fuel Gas Company and the Warfield Natural Gas Company?

A. I have.

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[fol. 3419] Q. Have you examined the same?

A. I have.

Q. Have you been furnished and have you examined, the detailed list of gas lands owned by the United Fuel Gas Company and the Warfield Natural Gas Company as of December 31, 1928?

A. I have.

Q. I will ask you to say whether this list of gas lands gives you the number of wells, if it is a leaseholds, the name of the grantor, the date of the conveyance, the form of grant, the number of acres, the delay rental term, the annual rental terms, the annual gas well royalty, the number of wells operated on each lease, and the consideration paid for such lease?

A. It does.

Q. I will ask you if you have also examined a summary of the gas wells owned by the United Fuel Gas Company and the Warfield Natural Gas Company as of December

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[fol. 3420] 31, 1928, classified by counties, and further classified by magisterial districts, in which is set out information as to the number of the well, the land owner, the date of the lease, the term of grant, the number of acres, the date the well was completed, sand formation where gas is produced, the thickness of the sand, and the depth of the well?

A. What was your second heading on that?

Q. Classified by counties, and further classified by magisterial districts, the land owner and the date of the lease.

A. I don't know what that number indicates there marked "File number."

Q. Well, the testimony in this case is that each lease of the companies is given a file number, and each well is also given a number, and these numbers here are assigned to

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[fol. 3421] the wells owned by the company.

A. My answer is yes, sir.

Q. I will also ask you whether in the same summary as to each well of these companies, there is the further information as to the initial open flow per M. Cu. Ft., its initial rock pressure, its rock pressure in the year 1928, the average line pressure at each well in 1928, and the average first minute rise above line pressure, the tubing volume in cubic feet of each well, and the actual number of days each well was used during the year 1928?

A. Yes, sir.

Q. I will ask you whether you have examined and studied this summary?

A. I have.

Q. I will ask you whether you have examined exhibit No. 15, which shows rock pressure production graphs and supporting data, being an exhibit filed by Ralph —.

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[fol. 3422] A. I have.

Q. Have you examined Exhibit No. 19, showing the compressor station horsepower by years?

A. I have not.

Q. Well, I will ask you to turn to it, then, and examine it—turn to Exhibit 19 and examine it.

(The witness examined Exhibit 19.)

Q. Have you examined the maps of the United Fuel Gas Company and the Warfield Natural Gas Company showing the classification of gas lands, which classification was made by Mr. Ralph E. Davis?

A. I have.

Q. Are you fully advised as to the basis of the companies' classification of lands as made by Mr. Davis?

A. I am.

Q. Will you state for the record into how many classes the acreage of these two companies have been divided?

A. They have been divided into four classifications.

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[fol. 3423] Q. Have you informed yourself as to the number of acres in each class you found in each of the six pools, and the several major pools of these companies?

A. I have.

Q. Have you informed yourself, in a general way, as to the situation of these companies with respect to off-set wells and competitive drilling, in general, in each pools?

A. I have.

Q. Can you suggest any more certain method of obtaining information with respect to the territory than by the compilation and use of the data furnished you in addition to your own personal knowledge?

A. I could not.

Q. Does the data and information relating to the gas territory of these companies, in addition to your personal knowledge of the gas fields and gas sands, in which the territory is located, contain sufficient facts or information you

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[fol. 3424] would want, if you were considering the pur-

chase of gas territory for yourself or for your company, or you would want your company to furnish if you were passing upon the purchase of gas territory either for yourself or for your client?

A. It does.

Q. So far as the gas territory is concerned, is there any additional data that you could suggest that would be useful in determining the market value of the leaseholds of these two companies?

A. I consider I have ample data here for that determination. I can't see or think of any further information that would be necessary or helpful.

Q. Please state whether you have information or knowledge concerning actual sales of gas leases in the various properties in which the United Fuel Gas Company and the Warfield Natural Gas Company are located?

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[fol. 3425] A. Why, in a general way, yes, sir.

Q. I will ask you if the gas territory of the United Fuel Gas Company and the Warfield Natural Gas Company described and included in this information and data were for sale, would there, in your opinion, be a market for same?

A. There would.

Q. From your experience in the natural gas business, and your personal knowledge of the present condition of the properties, the data and records which have been furnished you and which you have studied, and taking into consideration all of the factors and circumstances concerning which you have testified, are you able to express an opinion as to the present fair market value of the gas leaseholds of the United Fuel Gas Company, between a willing buyer and a willing seller, excluding the value of the wells, well equipment and physical equipment of every kind?

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[fol. 3426] A. I am.

Q. Are you able to express such an opinion as to the value of the proven acreage, that is the acreage designated by Mr. Davis and Classes 1 and 2; and Classes 3 and 4?

A. I am.

Q. Are you able to express such an opinion for the proven acreage in each of the six pools described by Mr. Davis?

A. I am.

Q. In forming that opinion, I will ask you whether you have considered the acreage put into Classes 1 and 2 as a whole, or have you considered this acreage which you have found within the several pools and in the miscellaneous areas as testified to by Mr. Davis?

A. I considered it in the several fields or pools and under the heading of "miscellaneous, West Virginia, and miscellaneous".

Q. Well, will you, then, please state to the Commission

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[fol. 3427] your best judgment as to the present market value of the proven Class 1 and proven Class 2 territory of the United Fuel Gas Company and the Warfield Natural Gas Company, excluding the wells, well equipment, and all the physical property of every kind for each of the six pools in which such territory is situated, and also the miscellaneous territory?

A. I consider the valuation of $45,000,000 to be the far value of the Classes 1 and 2 territory.

Q. Will you just go ahead and tell us how you arrived at that figure?

A. Well, I took the acreage in the Spencer field and placed a value of $50.00 an acre on it. There isn't any Class 2 acreage in that field. I took the Clendennin field, the Class 1 and Class 2 acreage, and placed a value of $200.00 on it or $31,920,000. In the Kanawha pool the Class 1 and Class

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[fol. 3428] 2 acreage amounts to 28,515 acres. I placed a value of $100.00 an acre on that or $2,851,000. I put on the Branchland-Nye Class 1 and Class 2 acres, which amounts to 112,892 acres, at $100.00 per acre or $11,289,000. The Tripple State is all Class 1 acreage, 14,190 acres, I placed a value of $100.00 an acre on that or $1,419,000. The acreage in Floyd, Magoffin, Boyd, Johnson and Lawrence Counties, Kentucky, 19,716 acres, I placed a value of $50.00 an acre on that, $1,980,000. The miscellaneous acreage in West Virginia, 27,013 acres, at $50.00 an acre, $135,000, and the miscellaneous generally at 1,865 acres, at $50.00, $93,000. Now, in that acreage there is 30,950 acres of fee lands, which I considered had an additional value of $25.00 an acre, which gave me $763,000, and I get a total of $50,398,000,

and I used a 10 per cent safety factor, which gave me $45,358,000.

967

[fol. 3429] Mr. Scott:

Q. Even money?

A. Well, six hundred and ninety-five, carrying it out.

Judge Rummel:

Q. Does that include all the Class 1 and Class 2?

A. Yes, sir.

Q. Now, what is the market value of the acreage within Class 3, according to your idea?

A. Well, in my opinion the acreage in Class 3 has a value of $10.00 an acre, and on that basis 101,103 acres of Class 3 leaseholds, 2,546 acres of fee, I used that 25 per cent. added value for the fee over the leasehold estate, which gave me a figure of $1,030,916.00.

Q. And as to the acreage in Class 4, what is your opinion as to the value of the same?

A. In my opinion, the 118,885 acres of Class 4 leaseholds are worth $5.00 an acre, and for the 16,555 acres of fee, I added 25 per cent, and I get a final figure there of $5,697,-

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[fol. 3430] 899.00, and I used the 10 per cent safety factor.

Q. And what is the final amount as to the total value of the total acreage within all four classes?

A. $51,414,629.00. Those figures of course are just the result of a multiplication.

Q. Well, what is your judgment as a whole as to the present market value of the gas leaseholds and fee gas lands of the United Fuel Gas Company and Warfield Natural Gas Company as of December 31, 1928?

A. $51,414,000.00.

Q. And if there were a willing buyer and a willing seller, what would you say would be approximately the range within which you could express the market value?

A. Between $50,000,000 and $55,000,000.

Q. In your opinion is there and would there be a sale for these properties, if they were obtainable?

A. Most decidedly, yes, sir.

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[fol. 3431] Cross-examination,

By Mr. Scott:

Q. You say you bought leases for them at that time?

A. I did.

Q. You mean you made leases with the land owners or did

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[fol. 3432] you buy leases or both?

A. Both.

Q. What did you pay for them then?

A. Well, we paid—it was a matter of negotiation—we paid as little as we had to.

Q. About what was it a farm?

A. You mean the range of prices?

Q. Yes, sir.

A. Well, that has been a long time ago. I would hesitate to name any definite range of prices.

Q. Among them were there leases that are now held by this company, the applicant here?

A. Yes, sir, undoubtedly. Of course they may have been renewed.

Q. You don't recall what they were?

A. I don't recall the details of those transactions, no, sir.

Q. What companies have you the gasoline contract with now?

A. I have the gasoline—well, the company in which I am

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[fol. 3433] an officer has a gasoline contract with the Monongahela West Penn Public Service Company. it has a contract with the West Virginia Utilities Company, which is now owned by the Monongahela West Penn Public Service Company, I understand.

Q. Your company operates the plant for the extraction of gasoline over the land of those two companies?

A. The company in which I am interested, yes, sir.

Q. You haven't anything to do with the active management?

A. Oh, yes, sir. The Baltimore Gas Engineering Company acts as manager of that company. We have a contract also to take the gasoline out of the Monickle Gas Company, and have a contract with the Central Kentucky Natural Gas Company, which now belongs to the Columbia Gas & Elec-

tric Company, but that plant is not being operated at this time.

Q. You are familiar with the Clendennin Field, are you?

A. In a general way I am, yes, sir.

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[fol. 3434] Q. Is each lease and each farm in that Davis pool just the same as each other, Mr. Burdette?

A. No.

Q. You have been shown his map, I take it?

A. Yes, sir.

Q. What are you actually engaged in now, in your own work?

A. The Baltimore Gas Engineering Company.

Q. You have a position with that company?

A. I am president of it.

Q. And you give it your time, do you?

A Yes, sir.

Q. And you are busy with its affairs?

A. Yes, sir.

Q. And you have continued those duties during this last month, haven't you?

A. I have.

Q. During this time you have been making up this estimate of these lands?

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[fol. 3435] A. Yes, sir, I may have neglected it somewhat.

Q. You kept it going, however?

A. Yes, sir.

Q. Well, frankly, you really haven't spent a great deal of time on this, have you?

A. Well, I have spent quite a lot of time. I haven't spent all of the thirty days, however.

Q. Well, a "lot" is a little like a "right smart jag of hay." I am trying to find out how much work you did do.

A. Well, yesterday and the day before I spent all the day, all of the time.

Q. When did you report to counsel on the other side your estimate of the acreage value?

A. Last night..

Q. Were you here yesterday?

A. No, I wasn't here.

Q. Did you hear the testimony offered here yesterday or —

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[fol. 3436] A. I didn't hear it or hear of it.

Q. Had you prepared any written report of any kind or statement before last night?

A. I had made my reports, my figures; I had a memorandum to help my own recollection.

Q. Was it in form as you gave it here?

A. Substantially, except it is more in detail than yesterday.

Q. Yesterday you had a flat pricing on the whole acreage?

A. I had.

Q. You worked it out on that basis?

A. Yes, sir.

Q. And not until last night did you attempt to assign a price to each pool?

A. I had built it up so that I had to go back and break it down.

Q. Now, coming to the Clendennin pool, do you recall the number of acres Mr. Davis represents as Classes 1 and 2 in that pool.

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[fol. 3437] A. I have that here; 135,618 acres in Class 1; 23,983 of Class 2.

Q. Now, in that pool there are a number of other holders of leases, are they not?

A. Well, to a lesser degree than any pool I ever saw.

Q. Perhaps so. There — a number of other holders, are they?

A. I wouldn't say so.

Q. None.

A. There are some.

Q. You don't know how many?

A. No, sir.

Q. How much acreage?

A. I haven't calculated the outstanding acreage, but it is a very small per cent.

Q. Did you look into the offset situation there?

A. The offset situation is pretty much a proposition of the United Fuel Gas Company's wells.

Q. But there is some offset situation there?

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[fol. 3438] A. Yes, sir.

Q. Did you familiarize yourself with that?

A. In a general way, yes, sir.

Q. What do you mean by that?

A. Well, I have had occasion to inquire into the independently owned properties in that field at different times.

Q. Would you be able to find there now and tell me of the most of the situations there now affected by that factor, the names of the tracts or the number of them?

A. No, sir.

Q. Or what the situation is as peculiar to any given names?

A. I wouldn't want to undertake to do that, no.

Q. I believe you said awhile ago that it was self evident, perhaps, that not all the territory in that large region was of uniform value throughout?

A. I wouldn't consider it so.

Q. You would not?

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[fol. 3439] A. No, if you are going to break it down to leases.

Q. And that results, does it, from the varying thickness of the sand?

A. It would also result from how closely wells are spaced.

Q. Yes, and by a number of other different factors, woudn't there be, Mr. Burdette?

A. If it came down to an individual well or an individual lease there would be.

Q. And there would be differences in the performances of wells, would there not?

A. Yes, sir.

Q. Can you explain to the Commission how you get your stated average for that field, by building up certain parts as costing so much and certain other acreage as costing so much?

A. I didn't build it up in that way in that field. I took that field as a piece of property there, and if I had a willing

seller and a willing buyer, what would be the figure at

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[fol. 3439a] which you could consummate the sale of the property.

Q. Well, that property has never changed hands, has it?

A. Well, some of it did, many years ago.

Q. Well, since the United Fuel Gas Company it never has, has it?

A. No, sir.

Q. You have no market to guide you, have you?

A. I haven't any actual transactions to guide me in that particular field, no.

Q. And I assume you would give the same answer if I were to ask the questions I have in detail as to each and every one of these other fields?

A. Well, I wouldn't want to commit myself in advance of your question.

Q. Does it make any difference in the value of a given lease in the Clendennin field whether it's one mile or two miles from a pipe line?

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[fol. 3440] A. Well, I didn't take that fact into consideration in reaching my figure.

Q. All right, but I am asking you now?

A. Well, that would depend of course on a gas sale contract, whether you had to build the pipe lines or the buyer had to build it.

Q. Well, that means you could get a lease for the gas if it was two miles from the pipe line sooner than you could get a lease if it was one mile?

A. No, sir.

Q. Could you sell your gas if it was two miles off as readily as if one mile off, without taking less for it, without building a line yourself?

A. I think I could possibly, if I am willing or if I could sell my gas at a price I am willing to accept and would have a sufficient quantity of gas to justify anybody building two miles, I would probably get the buyer to build that line.

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[fol. 3441] Q. All right. Say four miles?

A. I think that would be true four miles.

Q. Would your gas or their gas in the Clendennin field be worth as much without a pipe line in there that they owned or controlled?

A. Of course the gas is worth more to the owner of the pipe line than it is to someone who hasn't pipe line.

Q. Would it be worth anything without a pipe line or the possibility of one?

A. Not unless you had a consumer on the spot.

Q. If you bought the holdings of the United Fuel Gas Company you would first see to it that the way to the market was provided, wouldn't you?

A. That would be a consideration in the problem of any purchase or development of the property.

Q. You can't imagine a purchase without that, can you?

A. It is a factor that has to be considered at sometime or other.

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[fol. 3442] Q. And you meant, didn't you, that the purchaser of these properties would assume the obligations of the company, didn't you?

A. I meant to assume the lease obligations of the company.

Q. And you would have to take over the contracts for the distribution of it, wouldn't you?

A. Well, I didn't take that into consideration in reaching my figure. I treated this as territory proven for gas, of the character of this territory up here, ignoring pipe line facilities and ignoring the wells.

Q. But I am asking you, Mr. Burdette, what value would it have or what do you put it at, if you took it over and didn't arrange for some transportation?

A. Well, any purchase or undertaking of the property of that kind would necessarily include an additional provision for either transportation facilities or a consumer on the ground.

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[fol. 3443] Q. And you wouldn't have the value you say if you didn't have a way to take it out, would you, to market it somewhere?

A. Well, but the market,—I am treating this as a proposition with the value there, that your next step, then, would be your transportation or your market.

Q. I understand but I am asking you how you would have that value if you didn't have a way provided to market it?

A. Well, it has an inherent value, and simply added additional dollars in order to get the facilities for taking the production to the market.

Q. Then, you would have to take it away by transportation companies or pipe lines?

A. Yes, sir.

Q. There is no market on the ground for it, is there? No use for it there?

A. Well, not, of course, for any enormous quantity of it.

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[fol. 3444] Q. This is an enormous quantity, isn't it?

A. Yes, sir.

Q. And it couldn't be marketed without passing through utilities, could it?

A. I don't think that follows.

Q. Sir?

A. I don't think that follows.

Q. Well, I am asking you if it could be.

A. I think a very substantial amount of it could be marketed without delivering it to utilities.

Q. You will agree the other substantial part of it could not be, won't you?

A. Well, I think we have got to consider there whether we are speaking of the West Virginia utilities or speaking of a utility outside of West Virginia.

Q. If we are speaking of those outside, it is certain, isn't it, there is no other way to market it?

A. No, sir. You have a large industrial market; every

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[fol. 3445] gas field I have ever seen, the principal part of the load at the beginning of the development of the field, has been an industrial load. That has been true in Texas.

Q. Yes, sir, but we are dealing with a similar situation here now in West Virginia. Would the industrial market in West Virginia absorb this gas that is now connected to it.

A. Possibly not, the industrial market in West Virginia, but I wouldn't be limited to an industrial market in West Virginia.

Q. You understand, of course, what becomes of a great volume of this company's gas, don't you? What wholesalers, as they call it, get it?

A. I understand 80 per cent of it is delivered to other than West Virginia consumers.

Q. You understand at Cedarville, in Gilmer County, a large volume of it is delivered to the Pittsburgh & West

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[fol. 3446] Virginia Gas Company and to the Hope Natural Gas Company, don't you?

A. Well, as a general proposition, I think that is true.

Q. And perhaps one-fourth of it, may be one-half, is delivered at Balls Gap, in Cabell County, West Virginia, to a subsidiary company of this company for transportation elsewhere, you knew that, did you?

A. Well, I am not qualified to say. I knew the other detail you expressed, and I knew in a general way that there was delivery of gas to other companies.

Q. What sales have you known of in the last twelve months say, in the Tripple State field of this company or pool?

A. I haven't known of any sales in the Tripple State.

Q. Well, you put a value on what you called 1, for that?

A. I don't think there is any 2 down there.

Q. Well, we will come to that after awhile.

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[fol. 3447] A. Yes, sir, I put a value on the basis of the sands from which that gas was procured, the rock pressure on those wells.

Q. How far is that from any industries of any consequences?

A. I imagine the closest industries are at Ashland or in the Huntington area.

Q. That is approximately correct. May be 7500.

A. Yes, sir.

Q. And you know of no sales whatever there?

A. No.

Q. Yet you put a value of what on it?

A. I put a value of $100.00 an acre on it, subject to a 10 per cent safety factor.

Q. Safety first. What is that safety factor for?

A. Well, the safety factor is this. If I were purchasing a large body of acreage of this sort I would assume there

might be some variation in acreage that there might be along the edges of the area, there might be a thinning out

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[fol. 3448] of the sand or you might not expect the same degree of productivity at the edges of this pool or field that you would in the inside.

Q. Well, why not apply that same rule to Mr. Davis' pool in, say, Clendennin pool?

A. I used that safety factor as I testified to here.

Q. Where did you get that 10 per cent?

A. That is an arbitrary factor I was using in arriving at my opinion of this value.

Q. There is no rule for that, is there among gas men?

A. I understood I was testifying to my opinion of this value, and I went into the mathematics, is how I formed that opinion.

Q. I was simply wondering if your opinion was based in regard to other skilled people the same in regard to that range. Now, in the Branchland-Nye pool, what sales do you know of there?

A. Well, I know of some sales under contract at the present time. Purchase contracts.

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[fol. 3449] Q. You are using those as a basis of your statement here?

A. I am using every bit of information and every bit of contact that I have with gas leaseholds in forming a value. I can't help doing that.

Q. There has been nothing closed up in 1928, has there?

A. Well, there is a former contract of purchase in force on one certain property.

Q. Was it a merger, stock bonus or partly stock, or what?

A. It is cash.

Q. What is the acreage?

A. It is in excess of 5,000 acres.

Q. Sold to a utility?

A. I am not at liberty to say that. I will say if it is a utility it is not a utility under West Virginia regulation.

Q. It may be under regulation somewhere?

A. It may be.

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[fol. 3450] Q. Do you know of anything else in that field? I believe you said you knew of no sales this year?

A. No, sir.

Q. Do you know of any in 1928?

A. I know in a general way of the sales testified to this morning by Mr. Blair. I don't know the facts.

Q. In the Kanawha Field what sales have there been?

A. Well, some property was sold to the Allegheny Gas Company in the Kanawha Field.

Q. Who is the Allegheny Gas Company?

A. Why, I don't know. The Allegheny Gas Company, it is merely the name of the purchaser as far as I am concerned.

Q. You don't know the details of that sale?

A. The best information I could get the property in the Kanawha Field was sold at a higher figure than the average value I have placed on it.

Q. What property was it they acquired?

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[fol. 3451] A. They bought some property from the Sayer Gas Company.

Q. Who bought it?

A. The Allegheny Gas Company.

Q. Was there any production on it?

A. There was.

Q. Any pipe lines?

A. There is a pipe line. Whether the pipe line went with the sale I don't know.

Q. Any contracts go with it?

A. There was a contract for sale of gas to the Libby Owens Bottle Company, gas department.

Q. The whole thing was sold as an entirety?

A. It was.

Q. At a certain price?

A. Yes, sir.

Q. And you don't know what represented any particular asset?

A. Simply by a process of comparison.

Q. In your own reason?

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[fol. 3452] A. Exactly.

Q. But you don't know, do you?

A. I don't know what the purchaser valued these various component parts at.

Q. You spoke of another group. Proctor, Knott, Floyd and a lot of Kentucky Counties. Do you know of any sales down there?

A. I only know in a general way such as prices are generally discussed in the oil and gas business as to those sales down there.

Q. You have no personal knowledge of any?

A. I have not been down there for some years.

Q. Did I ask you about the Spencer field?

A. You did not.

Q. I will ask the same questions to the Spencer field.

A. Well, I don't know of any sales in the Spencer field recently. I know of some offers that have been recalled

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[fol. 3453] and at higher figures than I placed on the Spencer field.

Q. Do you know of any transaction involving anything like the number of acres this company professes to have in either the Spencer or Clendenin field of the character of their property there?

A. There is no such property.

Q. And we have no record whatever of any sale of leaseholds analogous to the sale that would be constituted by the changing of these leaseholds?

A. No, sir.

Q. Did you carefully consider Mr. Davis' classification?

A. I did.

Q. Did you give any thought to his distinction between No. 1 and No. 2 acreage?

A. I have considered No. 1 and No. 2 in my own mind, the only restriction was the No. 1 was producing and the No. 2 was not producing to the same developed extent.

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[fol. 3454] Q. In other words, when you make that calculation it means that you think there is reason to believe that development has made this No. 2 not only as good as No. 1 but better because the gas is all there yet?

A. Well, you would expect more gas in No. 2 when it is operated or opened up than you have in No. 1 by reason of the fact there has been less drainage.

Q. Certainly, if it is there in the beginning. You are assuming that it is there?

A. Yes, sir, I am.

Q. Without consideration of what he thought was not sufficiently developed?

A. That is an assumption when you are considering a leasehold.

Q. I am saying this, that he regarded there wasn't enough development to call it No. 1, didn't he?

A. I understand that he regarded it as not having

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[fol. 3455] reached that degree of development No. 1 had reached. In other words, it had not been drilled to an extent equal to No. 1.

Q. Sure, and for that reason he called it No. 2, isn't that it?

A. That is true.

Q. But you reverse him and call it No. 1?

A. No, sir, I simply in placing a value, which is an opinion, taking into consideration all the information, and all the facts, I have considered the value of his No. 1 classification and the value of No. 2 classification as identical.

Q. That must mean you assume the gas is in his No. 2 and more of it?

A. It does.

Q. Do you recall his map of the Clendennin field where he added the No. 2 in the different colors?

A. Yes, sir.

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[fol. 3456] Q. Do you remember what direction that is from the heart of the field, what seems to be on the map, I mean, of the field?

His No. 2?

Q. Yes, sir.

A. Well——

Q. I will help you. I believe he painted the No. 1 pink and the No. 2 blue.

A. Well, my recollection of the No. 2 was that it was north and west of the No. 1 classification.

Q. Is that the way you remember it?

A. Yes, sir.

Q. Why should he put the blue on the northwest?

A. I am not disagreeing with the location of the blue acreage.

Q. I am wondering if your location is the same as his. You are familiar with the field from a practical standpoint?

A. Yes, sir.

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[fol. 3457] Q. I am wondering if you would put the blue where he did. Do you know where he put the blue?

A. I knew where he put the blue when I saw the classification. Now my recollection is, it is where I stated.

Q. North and west?

A. Yes, sir.

Q. These companies that you named as operating in the Appalachian field are all public utilities except Godfrey Cabott, aren't they?

A. I don't believe the Carnegie Natural Gas Company is a public utility. It is my impression it is a plant facility of the steel corporation. I don't think the Inland Gas Company is a public utility.

Q. The Inland Gas Company is in Kentucky, isn't it?

A. Yes, sir, I understand it is an industrial gas company supplying industries.

Q. You don't understand that the Commissions have any-

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[fol. 3458] thing to do with industrial gas?

A. I am not undertaking to say what the condition of the law is on that.

Q. You have said you examined the lease types filed by Mr. Jay?

A. You refer to this?

Q. Yes.

A. I have.

Q. Do you know how many classes he made of the leases?

A. Beg pardon?

Q. Do you know how many distinctions he made?

A. I don't believe I counted them.

Q. Have you taken the trouble to ascertain how many leases there are of each particular type in the Clendennin pool?

A. I have not. I read each of these leases to see if there was any provision that would enter into its value and in my opinion it didn't seem that such was the case and therefore I didn't consider that a factor.

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[fol. 3459] Q. You think that wouldn't be a factor, the number of those different types there are in each of the different fields?

A. I don't think so, not when you have an aggregate acreage such as we have here.

Q. You assume that the acreage of the No. 3 and 4 was what the Company has reported here, didn't you?

A. I took these the figures of Mr. Davis.

Q. You took the Davis figures?

A. Yes, sir.

Q. And you assumed the reliability of all the data laid before you?

A. I did.

Mr. Scott: I believe that is all.

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[fol. 3460] From Co. Ex. 102—United Fuel, 1928, Case

Thereupon came A. HURLBURT, a witness of lawful age, introduced on behalf of the respondent, who being first duly sworn, testified as follows:

Direct examination.

By Judge Rummel:

Q. Where do you live, Mr. Hurlburt?

A. Philadelphia.

Q. Mr. Hurlburt, what has been your training and experience in the natural gas business?

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[fol. 3461] A. I entered the natural gas business in Kansas City, Missouri, after having been in the manufactured gas business for a number of years, when that city was turned over from manufactured gas to natural gas in the year 1906 and 1907. I was the engineer in charge of the local plants, and during my stay in Kansas City, which continued until 1920, I became very familiar with the operations of the properties of the Kansas Natural Gas and the Mid-Continent fields—in the Mid-Continent fields. That company supplied gas to the various distributing companies in the Missouri Valley, and it went into the hands of receivers

and as a result of it, the properties that I represented, holding a large amount of the mortgage bonds, kept me in very close touch with it and we were in the Federal courts, with receiverships, so that I mention that to show the facts

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[fol. 3462] that came out in the operation of the property, which probably are never worked out in the ordinary operations, so I will say there are *are* little of the details and operations and financing of that property that I don't know about, as well as the engineering end.

Judge Rummel: Just before proceeding further with your experience. I omitted asking you where you were educated.

A. I was educated in the public schools of Philadelphia, and graduated from Cornell in 1911, with the degree of M. E. From Kansas City I went to Pittsburgh, in the year 1920, as general manager and vice-president of the gas and oil properties of the Philadelphia Company in Pittsburgh. That was the Equitable Gas Company or, rather, in Pennsylvania, I should say, that was the Equitable Gas Company, which purchased, produced, transported and sold gas in Pennsylvania; in West Virginia it was the Pitts-

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[fol. 3463] burgh & West Virginia Gas Company, which produced and sold gas in West Virginia, and to the Equitable Gas Company at the State Line. I also operated the Philadelphia Oil Company. As such I had charge of all those gas properties, representing some 155,000 meters. We purchased gas from the United Fuel Gas Company; we purchased gas from independent producers, and we purchased gas from some of the other public utilities, particularly the T. P. Phillips Company of Pennsylvania. We also produced a great deal of gas throughout West Virginia and Pennsylvania. In 1925 and 1926 we were particularly pressed for future gas supplies and, as a result, we made a very careful determination of gas in this section of the state of West Virginia. When I say "this section" I have reference particularly to the territory throughout which the United Fuel Gas Company operated and also into East-

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[fol. 3463a] ern Kentucky. We had contemplated a pipe line across the state of West Virginia, across the state of Kentucky and West Virginia, in order to supply ourselves with

gas, and so that we would not be so dependent upon other utilities, and in so doing I spent a great deal of time in studying the properties of gas companies in Eastern Kentucky, and in the Southwestern part of the state of West Virginia. We were examining a number of properties with the idea of purchase and, I may say, we went so far in the study of that situation that we had options on certain properties, and had surveyed rights of way and bought pipe lines, with the idea of laying a line across the State to carry gas from Eastern Kentucky and this portion of the State of West Virginia; so that, later on we didn't lay that pipe line; we found it more profitable to enter into an agreement with the United Fuel Gas Company whereby

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[fol. 3464] they transported that gas, and in so doing—I mention that because in so doing it became necessary for me to make quite an elaborate or detailed investigation of the properties of the United Fuel Gas Company at that time, as we wanted to be quite sure that our arrangements were safe arrangements to make, so I feel that I have had very considerable experience in this particular field of gas properties and the United Fuel Gas Company's properties.

Q. You have stated you made an arrangement with the United Fuel Gas Company to transport certain gas. I will ask you whether that was in the nature of a trade or an exchange of gas from several points along the line of the company?

A. Well, yes, that is what it is.

Q. In other words, you delivered to the United Fuel Gas Company a certain quantity at its pipe lines at a cer-

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[fol. 3465] tain point in Kentucky, and the United Fuel Gas Company delivered to your Company in West Virginia substantially an equal amount of gas?

A. Yes, sir, that is substantially it, a guarantee of a certain amount.

Q. And because of that guarantee it became necessary for you to make a detailed investigation of the gas territory of the United Fuel Gas Company in order to satisfy you that the company could deliver under its guarantee?

A. Yes, sir.

Q. You say you investigated quite a number of properties and that you had a number of gas properties under

option for your company. Will you please give us the name of the properties you investigated within this same territory where the United Fuel and the Warfield Natural Gas Companies are operating?

A. I might digress, first, and say, while not in this State,

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[fol. 3466] still in the southern part of Pennsylvania, we investigated, and very carefully, the Greensboro Natural Gas Company; in Kentucky we investigated and finally purchased the Midias Carbon Company. We also investigated with the idea of purchase of the gas therefrom, not with the idea of purchasing the property itself, the Eastern Carbon Company property in Kentucky. In West Virginia we investigated, with the idea of purchase, and had an option on the Commercial Gas Company and the Monickle Gas Company. We investigated and purchased the Mill Fork Gas Company in Gilmer County. We investigated the Poca Fork; we investigated several properties owned by the Eastern Carbon Company in West Virginia at Shrewsberry; the Thompson Oil property and some property around Barren Creek; we also examined the Wakcato Gas Company property, and re-examined the Hamilton Gas

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[fol. 3466a] Company at that time, not with the idea of purchase, buf with the idea of running a pipe line into it.

Q. That is the property located in Nicholas County?

A. Yes, sir. Of course we made different investigations of leases, etc., but I think they are the main properties that we especially investigated.

Q. And at the time of these investigations did you have the prices the owners were asking for their properties?

A. Yes, sir.

Q. And of course you are advised as to the prices paid by your company for the properties which you purchased?

A. I am, yes, sir. Of course since that time of that investigation I spoke about, a number of these properties and some other properties in this State, in the neighborhood, have been sold, and I have been advised of the sale

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[fol. 3467] price of those properties.

Q. That is some of the properties you examined and did not buy?

A. Yes, sir.

Q. And are you further advised of the sales of properties that you did not investigate at that time?

A. Yes, sir.

Q. And can you give us any idea of those that you did not investigate but which you now say have been sold?

A. Well, in addition to those were the properties of the American Rolling Mills Company, which have been sold, and there has been some property sold by the United Carbon Company.

Q. Where is that property located?

A. In Floyd County- Knott County, Kentucky.

Q. Within the last few months to whom was that prop-

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[fol. 3468] erty sold?

A. That was sold to the Inland Gas Company.

Q. Are all of these properties to which you have referred located within the general territory wherein the United Fuel Gas Company and Warfield Natural Gas Company are operating?

A. They are, all of them, except that Greensboro Company I spoke of.

Q. Mr. Hurlburt, I will ask you whether you have been furnished with maps and data generally with respect to the gas leaseholds and gas territory of these two companies?

A. I have.

Q. I will ask you whether, in your business experience, which you have just described, you have acquired a knowledge of the market value of gas leaseholds in the territory where the United Fuel Gas Company and the Warfield

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[fol. 3469] Natural Gas Company are operating?

A. I have.

Q. I will ask you whether you have investigated the data and checked it, and examined and studied the maps which have been furnished you, so as to inform yourself as to the character of territory and the leases and the wells of these two companies?

A. I have, sir.

Q. Over what period of time have you given you- time and attention to this study?

A. Well, I would say, on this particular study, in addition to my general knowledge heretofore—I would say I have spent about a week in Pittsburgh in going over cer-

tain details and about two weeks down here study in the office of the company.

Q. Now, you have testified that you made certain inves-

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[fol. 3470] tigations of the company's properties several years ago in connection with the negotiations then pending for an exchange of gas. To what extent did that investigation lead you at that time?

A. Well, I felt confident that the United Fuel Gas Company would be able to supply us with all the gas we needed inexchange for that in Kentucky. I was astonished at the amount of acreage that the United Fuel Gas Company had in pools. I mean by that statement that they had a larger blocked territory of acreage than I had ever seen in any other company, so that it was protected from outside drilling by others, more than any other property I had ever seen.

Q. You are now referring to the proven acreage in each of these pools?

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[fol. 3471] A. Yes, sir, and that they had pipe lines and compressor stations sufficient to take care of the field and I felt perfectly confident of the arrangement we made.

Q. At that point, can you say whether the holdings of the company, especially in the proven acreage, are compact and generally protected?

A. They are so, especially in the Spencer, the Kanawha and the Clendennin pools; also, quite so in the Tripple State pool; probably not so much so in the Branchland-Nye pool or in the Kentucky territory, although the arrangement in Kentucky is such that it ought to be possible to have a reasonable working agreement, because so much of the territory there is checkerboarded with the Kentucky-West Virginia Gas Company, which would not cause the same sort of offsets that independent operators would cause, be-

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[fol. 3472] cause both parties would be working for one interest.

Q. From your experience and activities in the Kentucky field, are they about on the same level as the West Virginia fields?

A. Yes, sir.

Q. Can you give us some idea of the holdings of your subsidiary company in the Kentucky field?

A. Well, as I was saying, the Philadelphia Company reaching the point where it became necessary for them to get additional gas. They hadn't enough gas reserve territory in West Virginia or Pennsylvania by an- means, and the result was we went into Kentucky and purchased about 600,000 acres of fees and leases on somewheres near 400,000 acres of stuff in Kentucky. Practically all the development that we did was in Floyd County, a little but in Knott

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[fol. 3473] County, but most in Floyd—a little in Knott and we did very considerable development in 1927, in that county. So I feel that I have a very clear idea of the conditions over there.

Q. I believe you say that the acquisition of all this territory was under your direction and supervision?

A. The most of that was done in co-operation, in Kentucky, with representatives from Louisville, but none was done without we cooperated and agreed.

Q. I will ask you whether you have been furnished with and have examined the detailed list of the gas lands of these two companies?

A. I have.

Q. And have you also examined the data with reference to each of the producing wells of the United Fuel Gas Company and the Warfield Natural Gas Company?

A. I have.

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[fol. 3474] Q. I believe you say that you have spent about two weeks here in the offices of the company examining the maps and studying the data which have been furnished you. I will ask you whether you have had access to the large maps in the general offices of the company, of which the volume of maps filed here as an exhibit is a photostatic copy, on a reduced scale?

A. I have.

Q. Have you, in your experience, and in the examination of the conditions existing in these several pools, as well as in the examination of the company's records, acquired

a knowledge of the sands and the character of the sands, the rock pressures, and so forth?

A. I have.

Q. I will ask you whether your companies in Pittsburgh maintained or kept maps similar in character to the ones kept and maintained by the United Fuel Gas Company,

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[fol. 3475] keeping track of the drilling operations of either the United Fuel Gas Company or the Warfield Natural Gas Company?

A. Our records are very similar. We have kept maps on which we did as the United Fuel Gas Company has done, put all their own leases in yellow, and sometimes some different colors, if they meant some little outstanding interest, and we put on the map our own wells as did the United Fuel Gas Company, and the outside wells, and kept a card record of what our wells did and the outside wells, and we had just as much information from outside wells as possible.

Q. Well, in fact, you were a sort of a clearing house for the companies, being fully advised of what the companies were doing, the rock pressure, the open flow of the wells, and so forth?

A. In Pittsburgh, I think, about 1922, I started to swap this information with the companies that had heretofore

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[fol. 3476] — doing scouting. The same thing applied when we got to operating in Kentucky with the United Fuel Gas Company; I just furnished Mr. Wallace with the information of any wells we had over there, and he furnished us with the logs of their wells. We didn't keep in Pittsburgh, however, a log of wells down in this territory, because we weren't operating here, but that was our custom.

Q. I will ask you whether you have studied maps which have been furnished you, showing the classifications of the gas lands made by Mr. Ralph E. Davis?

A. I have.

Q. And I wish you would say whether, in your opinion as to the classifications made by him, they are correctly made?

A. I think they are as near correct as anybody could make them. No two men would perhaps lay out exactly

the same spots, but they are just as near correct as anybody
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[fol. 3477] could get on that kind of work. I think they are the best any men can do on them, and they would be the same thing I would use if I was making up those details throughout, so far as I can made out.

Q. Therefore, you have studied the data that has been included within the several classes made by Mr. Davis?

A. I have.

Q. I believe you have already stated you have informed yourself as to the proven leases and the competitive conditions within these fields, and you have stated the pools in which there is more or less competition?

A. Yes, sir.

Q. You have that information independent of what has been furnished you on the maps in the last two or three weeks?

A. Yes, sir, I knew in general about that.

Q. I will ask you what additional information you would
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[fol. 3478] like to have or would require, in addition to what has been furnished you, in order for you to arrive at a conclusion as to the market value of these properties?

A. I don't know as there is anything else that could have been furnished that hasn't been furnished.

Q. Well, does the data and information relating to these gas lands, in addition to your personal knowledge, contain sufficient data or information that you would want if you were considering the purchase of these leaseholds for yourself or any company or companies or client represented by you?

A. I have had more information than frequently I was able to get when we made purchases. I couldn't tell you anything more than could be possibly furnished. We frequently have had to purchase on a great deal less information; because the two important properties has been oper-
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[fol. 3479] ated and such records kept, and there isn't any more information could be kept or that could be asked for in relation to these properties.

Q. Well, would you obtain any additional information if you went out into the territory and examined the property itself?

A. Not a bit.

Q. Or would you get as good an idea?

A. I wouldn't get as good an idea. All the information in regard to those leases is contained in the records in the office.

(Reporter Cain here relieved Reporter Stanard.)

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[fol. 3480] Q. Please state what additional information, if any could be obtained in addition to the knowledge which you already have, with respect to the property of these companies had you gone out into the territory and examined the property itself?

A. None, that I know of.

Q. Could you have obtained as good an idea of the property?

A. I could not have obtained as good an idea because all the information in regard to the value of those leases is contained in the records of the company in the office.

Q. Now, you have testified as to certain properties which were investigated with a view of purchasing the same, and you have also testified as to certain properties purchased by your company. I will ask you, if you know, how the leaseholds of these properties compare in gas productivity with the leases owned by the United Fuel Gas Company

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[fol. 3481] and Warfield Natural Gas Company? In the same field.

A. Some of them, as for instance at Shrewsbury, are very much lower than the United Fuel leases although it is close to their holdings. In general, most of the leases that I have examined have less productivity correspondingly than the general run of the United Fuel, considerably. The United Fuel's fields vary also, so we had to compare different pools with different pools and draw your best comparisons it was possible to make.

Q. What have you to say as to the terms and conditions of the leases involved in these various transactions to which you have testified in comparison with the leases of the United Fuel Gas Company and the Warfield Natural Gas Company in the same field?

A. As a whole the leases of the United Fuel Gas Company are favorable, much more so than many of the leases of the

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[fol. 3482] properties that have been sold because a great many of the leases on these properties of the United Fuel have been in force for some years. I know in the Midas lease in the property that we had there were very unfortunate or very stringent terms of the lease where we had to take a certain amount of gas and had to drill a certain number of wells and we were also tied up with five-cent gas for a time. The average terms of the United Fuel Gas Company's leases are very fair and very usual.

Q. Have you had occasion to study the lease forms that have been compiled and filed here as an exhibit?

A. I went over all the various lease forms in that exhibit and they are the usual types or terms, rather more favorable than we were having in Pennsylvania but as a whole

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[fol. 3483] very similar. In other words, you have some very favorable leases, some 20,000 and we had very few of them.

Q. How are the terms of leases today as compared with the terms of leases a few years ago?

A. Every year has seen a harder condition in the taking over of leases.

Q. Why is that?

A. Well, it is the same as fixing the value of gas. The value of gas has gone up and the land owners feel they are entitled to more.

Q. What is the trend of prices for gas?

A. The trend of the price of gas in the field has gone up steadily in the eastern fields, all the way from New York State down into the southeastern part of Kentucky. Every year you see a continual increase in price. And in other words, when we came down here to buy gas there was very little of it we could see any chance of buying at 14 cents.

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[fol. 3484] It used to be that farther north we were able to buy it for ten cents and even back in 1920 up farther north in the state where our transportation was very much less, and the price through much of this territory has gone up to considerable higher than that. There has been a constant increase in the price of gas in the field.

Q. I will ask you what effect, if any, has the cost of production to do with the price of gas?

A. Well, I think that the cost of production has had a very great deal to do with the price of gas in the field and the general demand has also but I suppose in the last analysis that the cost of production and including the cost of additional hard terms that are put on by the owners of the leases have all added their weight to the cost of that gas in the field.

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[fol. 3485] Q. What have you to say as to the factor of rock pressure today in relation to production?

A. Well, of course, throughout the average, or throughout all West Virginia, your rock pressures have been declining year by year and the result is that in much of the territory that the out-put per well, even on new wells in many of the territories, is very much less than it was before. Therefore, the cost of gas per well or the amount of gas rather that is produced per well, is very much less and in order to pay the operating costs the price of gas must be higher at the well mouth.

Q. The price per thousand cubic feet?

A. Yes, sir.

Q. Now, from your experience in the natural gas business and your personal knowledge of the present condition of the property and the data and records which have been fur-

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[fol. 3486] nished you and which you have studied, and taking into consideration all the factors or circumstances concerning which you have testified, are you able to express an opinion as to the fair present market value of the gas leaseholds and fee lands of the United Fuel Gas Company and the Warfield Natural Gas Company between a willing buyer and a willing seller, excluding, however, the value of the wells, well equipment, and physical equipment of every kind? Just answer that?

A. Yes, sir.

Q. Are you able to express such an opinion as to the value of the proven acreage? That is, acreage designated by Mr. Davis as being within Class 1 and 2?

A. Yes, sir.

Q. Please state your best judgment as to the present mar-

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[fol. 3486a] ket value of the proven Class 1 and Class 2 acreage of the acreage belonging to the United Fuel Gas Com-

pany and the Warfield Natural Gas Company, exclusive of wells, well equipment and all physicial property of every kind?

A. $55,000,000.

Commissioner Divine:

Q. That is Class 1 and 2 acreage?

A. Yes, sir.

Judge Rummel:

Q. Will you please proceed and tell us in what way you arrive at that figure?

A. Well, I made the best analysis I could of all these various properties I have gone over. I analyzed them from the past records I had and analyzed the conditions of the various pools of the United Fuel Gas Company, selected certain districts of certain character throughout, as much as I could, and finally summed up and placed a value per acre. As a matter of fact, added up certain districts in my studies

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[fol. 3487] and came to a value per acre for the various pools of the operated territory. Adding those values together I reached the figure of something over fifty-five million dollars without taking any value at all for the fact these properties were very much more consolidated than any other property I have had anything to do with.

Q. I will ask whether you had any discussion with any other witnesses as to the value of those leaseholds or have you had from counsel or other persons connected with the United Fuel Gas Company or Warfield Natural Gas Company any opinion as to the value of these leaseholds?

A. I have not. I have not met any other witnesses in this case since the case came up.

Q. And when for the first time did you advise counsel or anyone else connected with the case as to the figures which

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[fol. 3488] you have now given to the Commission?

A. This morning at about 10:30 in your office.

Q. When did you arrive in Charleston?

A. At 6:20 this morning.

Q. I wish you would proceed to state just what your values are for this acreage in these several pools, Mr. Hurlburt, as found by you?

A. I placed a value of about $15.00 an acre in the Spencer pool; $180.00 on the Clendennin pool; Kanawha about $300; Branchland, $100; Tri-state and certain other territory, $85; and Floyd County $250.00.

Q. And the acreage of these two companies multiplied by the market value which in your opinion you have placed on the acreage of each of these pools, when totalled, give you the amount of approximately $55,000,000?

A. Yes, they give $53,630,000. As a matter of fact, my

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[fol. 3489] figures on acreage were not exactly in every respect the same as shown in the exhibits. In studying over these pools, sometimes I got a few acres in another pool that might have been classed differently on the big map. I might have added a few acres of the Branchland pool to another pool but in round figures that is what I found when I got through with the valuation.

Q. Now, I gather from your testimony that you have merged Classes 1 and 2 of the proven acreage in giving these estimates?

A. Yes, sir, I have.

Q. Will you please state why?

A. I have done it because I felt it was practically all one class. It was impossible to separate where the lines were and that was the acreage I would consider proven if I were buying the property as on a comparison of property purchases I have made.

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[fol. 3490] Q. So that you consider as a result of your experience the acreage within Class 2 is practically of the same value as the acreage in Class 1?

A. Yes, sir.

Q. Do you know of any of the values placed upon the acreage in these several pools by other witnesses who have testified here?

A. I do not.

Q. Now, will you please tell the Commission what value you put upon the acreage within Class 3 and Class 4?

A. I took 3 and 4 together and put a value of $5,000,000 on it.

Q. Why did you do that, Mr. Hurlburt?

A. Well, I feel that that is probably the hardest thing there is to really put a value on. It is prospective value but for some of it, just as I have in the proven acreage, I wouldn't give a very high price for. Others, knowing the

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[fol. 3491] history of what is operated, undeveloped, and what it would cost to gather it up and the needs of a company to have it, the least possible figure I could put on it would be $5,000,000. Some of it I put down at high prices and some of it I put down at low prices, being off from the territory, but I felt that the figure of $5,000,000 is very conservative for that territory.

Q. What would you say would be, then, the fair market value of all the acreage within Classes 1, 2, 3, and 4, belonging to the United Fuel Gas Company and the Warfield Natural Gas Company?

A. $60,000,000.

Q. I will ask you whether in making this estimate you have given any value on account of the oil rights included in the leaseholds?

A. I have not.

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[fol. 3492] Q. In giving this estimate of value have you considered the present state of exhaustion and conditions and present state of the leases the purchaser would have to assume?

A. I have.

Q. And what have you to say as to whether the value you have testified to would apply to these properties as of December 31, 1928?

A. They would. All the information was on that basis.

Q. I will ask if the value which you have used on these gas leases in any way reflect the present earning power of the United Fuel Gas Company under the rates prescribed by the Public Service Commission of West Virginia?

A. They do not.

Q. Mr. Hurlburt, from your experience in the natural gas business and from your knowledge of the United Fuel Gas Company and the Warfield Natural Gas and their in-

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[fol. 3493] vestment in physical property in the States of West Virginia, Kentucky and Ohio, including the number

of acres in Class 3 and 4 held by them, are you able to state or express an opinion as to whether the unoperated acreage within these two classes of these two companies is large or small?

A. The acreage in Class 3 and 4 is not large nor excessive in any way for a company of the developed territories and the needs of this company and its future growth. This company could not expect over a period of years to take care of its business without continually opening up new territory and new development. Otherwise, if it didn't do that the cost of giving service and getting the gas out of the ground as needed would be excessive and rates would have to be very much increased. You have to have the

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[fol. 3494] territory in order to develop. The picture is well shown by a study of the maps and a comparison between the case five years ago and today of the new territory that is putting gas into the lines. It is an absolute necessity. That was the great trouble with the company we had, the Philadelphia company, we had about as much operated acreage as we had unoperated territory and we had very serious difficulty because we wouldn't get enough territory to meet our peaks.

Q. That was what impelled you to go to Kentucky and take over a million acres down there?

A. Absolutely.

Q. Is there any standard that has been set up as to what should be the relation of proven acreage or unoperated acreage in the case of a gas company like the United Fuel Gas Company?

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[fol. 3495] A. There are too many factors. There is the peak load demands and ability of the territory itself to give up gas. There are so many factors that come in that I don't see how any rule could be laid down except to say it must be considerably more than the operated territory.

Q. Can you then say from your personal knowledge of the affairs of the United Fuel Gas Company and the Warfield Natural Gas Company, as to the location of its lands and the volume of business transacted by them, the number of patrons they have to supply, and from these and any other factors, can you express a judgment as to whether

the particular acreage in Class 3 and 4 is out of line as a proper reserve for either of these companies?

A. It does not so appear to me for a company of this size.

Judge Rummel: I think that is all.

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[fol. 3496] Cross-examination.

By Mr. Scott:

Q. Mr. Hurlburt, what do you mean by saying, if I correctly understand you, that if the company did not have the reserve it would increase the cost of operating the producing territory?

A. I meant, as time goes on, you have to meet an increasing demand, or the same demand you have today, and that must be gotten out of a limited territory. The only way to do it is to over drill your territory and you get less out of each well. You may get your gas faster out of the field. In other words, let me say if you have 100 acres here on which there ought to be one well, you can get so much gas out of it. If you put in five wells your pressures will go down faster, and your cost of operating will be

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[fol. 3497] more than if you took it over a period of time. Therefore, if you do not continually go out and develop new territory in which the well pressures are higher you are apt to have peak loads, and those wells are saved for peak loads, so that your operating costs for your whole system are less than they would be if you found yourself without this territory.

Q. Of course, you would not take up this acreage unless it was prospective?

A. If all this reserve stuff was dry holes of course you wouldn't take it up.

Q. Now, as I understand Mr. Davis, we don't know this is reserve?

Q. No, but we know this; we know that when the United Fuel Gas Company started here that they did not own at that time 100,000 acres of proven territory, but they found out that there was likely to be certain acreage and they

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[fol. 3498] went out and bought it, some at high prices and

some to beat other people out, and picked their territory. Just go study the maps and you will see lots of stuff that was Class 4 is now developed, maybe not by the United Fuel, but by somebody else, territory that was Class 4 then is developed now. That is true of any natural gas company in these fields. We have gone out year after year in territory that was 4th Class and 3rd Class and taken up acreage that is now developed.

Q. In other words gas has been in new places?

A. Yes, sir.

Q. And you hope that it will be duplicated again?

A. It is a guide to the future.

Q. And in your value of this reserve territory you said something about it being prospective——

A. In regard to proven territory?

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[fol. 3499] Q. I mean the reserves, Class 3 and 4.

A. I am just taking that as it is.

Q. Accordingly you put a comparatively nominal value of $5,000,000.00 on that acreage?

A. Yes, sir.

Q. Now, I believe you said, too that if the reserve territory was not available and came into use and became productive, the rates would have to be increased. That is true, I suppose?

A. Your operating costs would increase.

Q. And your rates to the public would be increased?

A. Yes, sir.

Q. There is, then, a certain relationship between the value and the rates?

A. The value of that proven territory.

Q. The value of the proven territory and reserve and the rates?

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[fol. 3500] A. No, I don't make it so in the valuation I have made.

Q. If your production costs increased as your proven territory tend- toward exhaustion, and you could not duplicate the production in the reserve territory, your gas would be worth more, wouldn't it?

A. If your production costs increase you have to ask more for it.

Q. Any accordingly you would need higher rates?

A. Yes, if your production costs, it is one of the costs, increase, you must get higher rates.

Q. Now, must not it follow that the high rates reflected are occasioned by the conditions in the field?

A. Not in every respect. The rates will be higher, of course, on top of the ground as the operating expenses increase, there is no doubt about that, but that has not [fol. 3501] necessarily anything to do with the cost of the

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leases.

Q. Not necessarily, but as a matter of fact, it has, hasn't it?

A. Of course the value of gas, the price at which gas can be sold, does reflect itself in the lease. Of course, if the price of gas produced upon the surface of the ground increases, you have to pay more for the gas in rates in a regulated business.

Q. Well, then this $5,000,000.00 for Class- 3 and 4 acreage could not be worth that price except to an organization such as the United Fuel Gas Company, that had an organized plant and distribution system, could it?

A. Oh, yes, it could.

Q. Could you divorce it from the other and sell it at that price?

A. It could be divorced and sold.

Q. Yes.

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[fol. 3502] A. It could be divorced and sold.

Q. Is there anyone else needing that reserve in this territory?

A. Yes, I know there are other companies, and they are both utilities and non-utilities, who would be glad to buy some of that reserve.

Q. What other utilities in this territory are there who need that reserve for its organization?

A. I do not propose to say who it might be any more than I could tell you who was in the market for a bank corner on one of your main streets if it were for sale, but I have perfect confidence it would be sold in the course of time to somebody. I have no doubt you would find a purchaser for them.

Q. In your investigation of this data about the pools and fields, did you have before you records and maps of other

operators of any sort showing the location of their leases, the rock pressure, and the past and present production?

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[fol. 3503] A. I had in a number of cases that information. Of course, as I say, I had access to a number of these properties, and I was able in some of them to check up conditions.

Q. I mean, Mr. Hurlburt, did you in going over each of these pools, and have you, or would you, be able to tell where the information is now, where you got it, showing you that data?

A. Well, I got certain of that from our private records of the Pittsburgh and West Virginia Gas Company——

Q. Yes.

A. And on quite a number of these properties I had the geologist's report at that time.

Q. And that covers the whole scope of my question?

A. No, I got other information on certain of these properties from other records, but the majority of the information I got in Pittsburgh.

1125

[fol. 3504] Q. From the Ohio Fuel Oil Company?

A. No, sir, I got most of it through the Pittsburgh and West Virginia Gas Company's records.

Q. How long, have you been exchanging information, with the United Fuel Gas Company as a group to which it belongs?

A. We haven't been exchanging any information with the United Fuel group except as to—I started to exchange information with the United Fuel in regard to wells drilled in Kentucky only. As I say we did not operate in their territory. I don't know whether that is still being done, or not, I guess it is.

Q. You mean, then, that until you were examined here as a witness, and given this data, that you availed yourself of, you didn't have the information you have gone over furnished by Mr. Davis?

A. That is not quite true. That is, I mean, no information

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[fol. 3505] in regard to the United Fuel Territory. As I said, in the year 1927, I guess it was, when we made that contract with the United Fuel Gas Company, we had quite a number of men down here and I was down here and

we went over their records to see whether their facilities were sufficient to take care of us under that agreement.

Q. You, of course, didn't have this data filed here?

A. No, this special data was made up as of the end of the year. We had access to all well records and map records we wanted. We found out what the Company produced from past experience.

Q. Did you make up your figures at that time of how much per acre any one parcel was worth?

A. I did not.

Q. Never did that until for the purposes of this case?

A. No, sir.

1127

[fol. 3506] Q. For the Pittsburgh and West Virginia Gas Company, I mean, or the West Virginia and Pittsburgh Gas Company?

A. The Pittsburgh and West Virginia Gas Company.

Q. That is the one that has been taking gas from this company for a great many years at Cedarville?

A. Yes, sir, we took gas from this Company for twenty years, is my recollection, 1906 is that original contract 21 years, maybe 22 years.

Q. Now, in 1927, you began to talk about building a pipe line?

A. 1916, eleven or twelve years ago.

Q. About 1927 you conceived the idea of building a pipe line down thru this territory, I think?

A. We investigated territories down here and designed a pipe line to take gas out.

Q. That fact came to the knowledge of the United Fuel Gas Company, the same company here?

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[fol. 3507] A. Oh, yes.

Q. Thereupon you entered into some sort of an arrangement, did you not?

A. We entered into an arrangement with them after we had gotten a territory in Kentucky, and certain territories in West Virginia, undeveloped operations, and had gotten so far as to survey right-of-way and buy the pipe line.

Q. Yes?

A. And then we entered into an arrangement to exchange with the United Fuel.

Q. That was after you had gotten as far as that, they became willing to enter into that arrangement?

A. Yes, sir.

Q. Then you turned over, I will see if I am right, you then by virtue of that agreement turned over your production

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[fol. 3508] in Kentucky in exchange for the gas you were to get at Cedarville.

A. No, sir, what we did we were to produce the gas at Cedarville, the men in Kentucky and were to be assured that the same quantity of gas be delivered in our pipe line at Cedarville regardles of whether the United Fuel took it from Clendenin or whether they pumped it from some place else, but we were assured of that quantity.

Q. That was an exchange or trade?

A. That was what we delivered.

Q. You got a guarantee of a certain quantity?

A. We got a guarantee that they would deliver to us the gas that we would produce, or the same amount.

Q. You are under the same obligation to give them the same amount of gas from your Kentucky production?

A. No, sir, we are not under any obligation. I have stated we produced certain gas there and pay a certain sum for having it transported, but they were to deliver that

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[fol. 3509] much gas to us at Cedarville.

Q. But I am asking about the gas you are now delivering. What is the volume of that?

A. If we don't produce any down there they don't deliver any.

Q. What have you been producing down there, I will put it that way?

A. We are producing down there, I wasn't there this year, but my information is about 30,000,000 feet a day—40,000,000 feet a day.

Q. Did you build the pipe line from Floyd County, Kentucky, to furnish this gas?

A. No, we did not.

Q. How do you get your gas? You produced gas in Floyd County and Knott County?

A. In Floyd County an- Knott County a subsidiary of the United Fuel laid a pipe line up to near Kenova.

Q. When, under this agreement, they built the pump-

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[fol. 3510] ing stations—it that the same as compressor stations?

A. Yes, sir.

Q. Where is that?

A. Martin.

Q. In what County?

A. Floyd County.

Q. How far is that from Kenova?

A. 65 miles.

Q. They built the line to Kenova and I suppose some compressor stations on that line?

A. One at Wayne.

Q. And you turned it over to them down at Kenova and they used it on to Cincinnati.

A. I judge most of it goes to Cincinnati, as they deliver to Cedarville. That quantity allows 5 per cent for leakage.

Q. Do you know whether they turn that over to the United

1131

[fol. 3511] Fuel Gas Company or some other subsidiary companies?

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A. I do not.

Q. Do you know the name of the Company into whose hands it goes?

A. I merely made the contract with the United Fuel Gas Company. We produced the gas and we reserved it at Cedarville and we paid the United Fuel Gas so many cents a thousand for transporting it.

Q. It is in form then, you are taking out of the line the same amount of gas they put in down yonder in Kentucky?

A. They get at Cedarville the same amount of gas we produce in Kentucky, less, I think, 5 per cent for line loss.

Q. And you stand the transportation charge?

A. And we pay so much a thousand feet for transportation.

Judge Ritz: As a matter of fact, this gas never goes to Cedarville at all, they just pay this difference of deliveries into their lines.

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[fol. 3512] Colonel Wallace: In the last analysis this transportation cost is absorbed.

The Witness: We have got to pump it and handle it.

Mr. Scott:

Q. When that agreement was made you went no farther with the project for building the line yourself, so that you are not in position, I mean your company, you are not now and for that matter never have been, in position to buy the gas produced in the territories between the Big Sand River on the west and Cedarville on the east?

A. Yes, we are in position to buy that gas.

Q. Are you in position to take it at your own lines?

A. We are in position under that contract to take it.

Q. I am speaking now of the physical condition?

A. We are in a physical condition to take it.

Q. Where is your line?

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[fol. 3513] A. The United Fuel lines.

Q. You have none of your own in that field?

A. No, sir, we have got some few lines.

Q. You could still furnish the Pittsburgh & West Virginia the gas its distributes along its line from Cedarville on to Pittsburgh?

A. Yes, sir.

Q. How much territory did the Midas people have in Kentucky?

A. Midas, had 12,000 acres and a little over, 12,000.

Q. You didn't put that in at $250.00 per acre, did you?

A. Well, that is a question, it was not developed at that time.

Q. I just asked, if you will pardon that.

A. We did not pay anything like $250.00 an acre for the Mildas property.

Q. Nothing like it?

A. No. I am not going to say.

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[fol. 3514] Q. All right.

A. But the Midas property at that time had very little shale gas development. We know now there was much shale gas at that time and it was very shallow stuff.

Q. Did you have any territory in the Kanawha Pool?

A. No.

Q. To what destination does the gas from the Kentucky field, as a whole, I don't mean by that in any county, but what markets does it reach?

A. Well, some of it reaches Louisville; some of it is going to industries at Ashland, or thereabouts, thru the Inland Gas Company; and some of it evidently goes to Cincinnati.

Q. Are you familiar with the volume, entire volume, of gas that goes by the year, out of the what you might call the United Fuel Gas Company and Warfield Natural Gas Company's territories?

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[fol. 3515] A. You mean, out of what territories?

Q. Out of what territories?

A. No, I couldn't say where all gas out of that territory goes. It would be vary hard, with the United Fuel Gas Company and the Hope Natural Gas Company, and the Owens Bottle Company and the International Nickel Company and all these commercial plants it would be pretty hard to say what that all is. I don't know.

(Reporter Stanard here relieved Reporter Cain.)

1137

[fol. 3516] Q. Did you ever buy any territory in the Branchland Field?

A. Oh, we bought a little bit of a pool down at the south end of that, I guess; I forget the name of it.

Q. You don't remember what year?

A. We bought that around 1927. It was very small.

Q. What was done with it?

A. I guess that gas is going into the United Fuel Gas Company's lines.

Q. You don't think of any other in the Branchland field?

A. No, sir. Well, we bought a well up there, a well or two. We bought some acreages which we got options on; we had options on that Commercial Gas Company stuff, which is more or less a part of that general pool. I mean going up through there. That was further up in Cabell County than really the Branchland pool is.

Q. You got those, I believe, in 1927, didn't you?

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[fol. 3517] Q. That is why you were figuring on the pipe line?

A. Yes, sir.

Q. You turned them over to the United Fuel Gas Company?

A. We didn't do anything with it. We felt, with the conditions, we had enough without carrying any further assets.

Q. In other words, you ceased all efforts to get territory in the field?

A. We felt our drilling over in Floyd County was better than we anticipated.

Q. How has it turned out?

A. Very well.

Q. What is your production over there?

A. The company I represent is getting over forty million cubic feet an day over there.

Q. How does that compare with the amount you get out of the line at Cedarville?

A. We get that same amount up there.

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[fol. 3518] Q. Did you ever buy any territory in either the Spencer or the Clendennin fields?

A. No, we didn't buy any there.

Q. Or the Tripple State?

A. Well, no, we didn't buy any directly in the Tripple State's pool, but I know what it is.

Q. Or the Kanawha?

A. No. There was some of this territory that was sold by the Eastern Carbon Company pretty close to the Kanawha pool down there.

Q. How long,—when did you set to work prior to this project in 1927, you operated in here?

A. What is that?

Q. At about what time did you begin your operations in here? I don't mean drilling; I mean surveying and scouting?

A. We have been scouting down here since about the time the Hope Natural Gas Company came down here, about

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[fol. 3519] 1925. In other words, we thought if the Hope Natural Gas Company got down here we would have to get down here; we had to get gas.

Q. You got better rates in the upper end of the State than the United Fuel Gas Company got here?

A. Well, we always had better rates than the United Fuel Gas Company had.

Q. And they have been raised in comparatively recent times, haven't they?

A. I believe in the last two or three months, yes, sir.

Q. And of course the better your rates are up there the better position you would have been in to buy gas from the United Fuel Gas Company or elsewhere?

A. Well, what we got for gas in the upper part of the state wouldn't amount to much, because all of our sales was in Pennsylvania. Our rates in Pittsburgh are very

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[fol. 3520] much higher than anywhere in the State.

Q. I suppose in multiplying your per acre price by the acres in these cases, you assume the amount of acreage given you to be correct?

A. Yes, sir, I assumed those acreages as being correct, in the amounts that were given. I didn't actually add them up or scale on the map; I couldn't have done it.

Q. And of course unless the acreage you used proved to be correct, both as to classes 1 and 2, any of the classes, your $55,000,000 or $60,000,000—$55,000,000 on proven stuff—if that acreage should prove incorrect there necessarily will be some change in that price?

A. If the measurements are incorrect of course there is going to be some changes in those prices. There has got to be.

Q. Going back to the Spencer pool, say, you assumed

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[fol. 3521] every acre in that pool to be worth a certain price, and used that for your result?

A. No, I didn't. I said that was the round figure I got as to the Spencer pool, but as a matter of fact in working up my figures I gave less value than to most of the Spencer, because it is down so low that the value I placed on it was placed practically on all the Spencer pool they are now getting Injun gas from, and when it is spread over the whole pool it comes out about $15.00 an acre.

Q. Well, did you set down 100 acres at a certain price, and 200 acres at a certain price?

A. I didn't get down quite that small. I went through a good deal of this performance——

Q. (Interrupting:) It might be small in one place but it might amount to a great deal through a calculation to other acreage.

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[fol. 3522] A. Yes, sir, and I am convinced that those figures are the figures that I would be willing to use in recommending the purchase.

Q. I understand. You are trying to convince us now?

A. Yes, sir. I say there is some territory, if you got back out of the Kanawha pool, would be worth four, five or six hundred dollars an acre. Now, when you get through you have to use your best judgment as to what you would get on the whole.

Q. Have you the calculations that you made with you?

A. No, I haven't them.

Q. Where are they?

A. Well, I think most of them are back in my records at home in those detailed penciled figures.

Q. I want to get clear. Did you pick out a certain acreage of whatever amount that you rated at $175.00 and a certain other amount at $185.00.

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[fol. 3523] A. I didn't throughout the whole territory. I was particular as to the Spencer pool, because the prices were down so low, and I went through the Clendennin pool trying to pick out certain territories, but I haven't got those figures all placed out opposite certain amounts, because I couldn't get at it, it would have taken too long to get those figures, and a great deal of it is averaged.

Q. Just roughing it?

A. To a certain extent it has to be.

Q. Roughing and guessing? Well, it is in comparison with what you have in your mind of other territories?

A. Yes, sir.

Q. In other words, when you would go to make up a valuation of any property, you have to use a matter of judgment, of past experience, and you always use a matter

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[fol. 3523a] of judgment, you can't lay it down in a straight tract, but in a great many of these territories there was no experience to guide you, was there?

A. I wouldn't say that, no.

Q. I mean while there was a certain experience as to one part, there was a difference experience as to another part?

A. There is just as much experience as there is for a man to compare one piece of ground with another, or a piece of a building. They are entirely difference but the unit costs come out just the same with the gas under ground as it is with buildings on top of the ground.

Q. Do you know of any transactions in the United Fuel Gas Company's fields in West Virginia that would be analagous to the purchase and sale of the acreage assigned to the Clendennin pool by Mr. Davis?

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[fol. 3524] A. Do you mean has there been acreage down here sold that compares with that?

Q. No, sir. I mean do the transactions compare in quantity of materials and the sizes and conditions generally.

A. There has been no transactions of any such size as the Clendennin pool, no. There has been pools sold in which there is somewheres near the same quantity or the amount per well, and things of that sort. You have to work through all those things; they must all be taken into consideration.

Q. What information have you as to these others, personally?

A. Well, I told you that. I had charge of the investigations made by our company, and I have information as to what those properties sold for.

Q. Well, what were they, some of them?

A. What do you mean, what properties were sold?

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[fol. 3525] Q. What transactions can you detail in this territory, that you can assert is equivalent to the best territory in the Clendennin field?

A. Well, perhaps there is no territory that is exactly like that. Take the Wackato Gas Company, which was sold, and in my judgment, the proven acreage in their fields is $800.00 an acre.

Q. Was it sold for money or for paper?

A. It was sold for a good sum of money, and the paper I would discount at about 25 per cent at that time. They may have thought they were going to get full price for it.

Judge Rummel:

Q. Suppose you give the figures on that, Mr. Hurlburt?

A. It was for two and a half million dollars, of which

one and a half million was cash; one million dollars in preferred stock, and they also assumed a debt of $65,000.

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[fol. 3526] Commissioner Nethken: What property did they have?

A. They have some property down in south-east of Chapmansville.

Q. What else did they have?

A. That is all they had.

Q. What did they have in the way of wells and lines?

A. They had at that time, I think, if my recollection is right, about ten wells on it, but all I did was to take off the value of the estimated cost of the wells, to get the value of the property, and there was a very little of it developed, but of it, in the figures, are what is termed wildcat territory.

Q. Would you prepare a detailed estimate of your value of that property and file with your estimony? I won't bother you to do it now, but will you do it later?

A. I don't feel I want to go that far in putting in reports

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[fol. 3527] on these outside properties. I mean to say, what my judgment is or reports of those outside properties; I don't think it's quite the thing I should do.

Q. If the commission hasn't the details as to these things. then it becomes entirely an opinion of the witness.

The Witness: Well, I will be glad to give you what information I have on that.

Mr. Scott:

Q. Who bought the property?

A. That was bought by the West Virginia Gas Corporation I think they call themselves; they bought the Commercial Gas Company finally, and the Monickle and the Poca Gas Company.

Q. Who gets the gas?

A. Well, the gas from the Wackato Gas Company's property is sold to the United Fuel Gas Company. It was offered to us when I was with the Pittsburgh & West Vir-

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[fol. 3528] ginia Gas Company and, while we examined it a geologist made a report on it, and I wasn't interested,

because that wasn't what I was after, was gas to sell to the United Fuel Gas Company.

Judge Rummel:

Q. You wanted it for your company?
A. Yes, sir.

Commissioner Nethken: As I understand, you are familiar with all the details, and know exactly what this company paid for this property?

A. I know that fact, yes, sir. They paid for that Wackato property $1,500,000 in cash and that $1,000,000 of preferred stock.

Q. You know that of your own personal knowledge?

A. I know it from one of the men interested in the deal. I didn't see it on record.

Commissioner Nethken: Well, I will withdraw my request.

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[fol. 3529] Judge Rummell: We would like to say that Mr. Larner has full and complete details as to that information about which Mr. Hurlburt has testified. If the Commission wants to know about the acres and about the leaseholds and the amount in stock and the number of wells upon each of these properties, their value as compared with our leaseholds, the purchasers, we will be glad to have the information furnished.

Commissioner Nethken: It would be pertinent to show the conditions and everything was exactly similar.

Judge Rummel: Well, Mr. Larner is the purchaser of a number of these properties. He is advised that the values in these fields and qualified whether our acreage is more valuable than what he purchased. These gentlemen know of those sales and the high prices paid for gas acreage. This information Mr. Larner will give on cross examination.

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[fol. 3530] Mr. Scott: We expect to do that, yes, sir.

Commissioner Nethken: Mr. Hurlburt, did you mean when you answered the question that the Pittsburgh & West Virginia Gas Company hadn't purchased any leases in the Clendennin and Spencer field that they didn't own

any leases in that particular field or that particular territory?

A. I don't think they have any leases in that particular territory.

Q. How far south does the Pittsburgh & West Virginia Gas Company operate?

A. The Pittsburgh & West Virginia Gas Company operates South in Gilmer County, a little in Calhoun, and after we get down into Kentucky, I haven't combined those properties we got in Kentucky, and down in this territory the Kentucky-West Virginia Gas Company, we took up

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[fol. 3531] some lands in Boone County, we took up some stuff in Cabell County, and I can't recall now just where we have leases down here. We didn't drill any of them, and they were, I will say this, they were out in what we now Class 3 and 4 territory, because we couldn't get any other.

Q. Do you produce gas in the same sands as is produced by the United Fuel Gas Company?

A. Oh, yes, sir, some.

Q. How do you consider that the territory of the Pittsburgh & West Virginia Gas Company compares with the territory under lease by the United Fuel Gas Company?

A. The Pittsburgh & West Virginia Gas Company have no territory anywhere near as valuable, taken as a whole, as the United Fuel Gas Company, unless it's territory in this new territory of the Kentucky-West Virginia Gas

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[fol. 3532] Company developed, which, I think they will develop, that the Pittsburgh & West Virginia Gas Company have—none of it, in my opinion, has the life that is reached in the United Fuel Gas Company, nor have we anything that is protected anywheres as near, anything similar to it, in the way of territory.

Q. Has it been your experience that the rock pressures reduce more rapidly at the present time than they have in the past—I mean the wells recently drilled?

A. Well, that question will only stand the answer, with regard to conditions, whether the rock pressure declines more rapidly now than before. That would depend upon the fact in past times you didn't have the competition that

Q. Well, what would you say about the territory in West

Virginia in which the Pittsburgh & West Virginia Gas Company operates?
you have got now.

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[fol. 3533] A. They have a very great deal of competition. They have a great deal of territory in which the pressures are down low, and on those particular wells the pressures are falling very rapidly, because the amount of gas taken is very small, but when we get to the Pittsburgh & West Virginia Gas Company, when they get a well in a new territory, the pressure goes down rapidly, because they take the gas rapidly, because if they didn't take their competitors will.

Q. You spoke about the "our operations in Kentucky." What company do you refer to?

A. Well, I refer over there to the company now known as the Kentucky-West Virginia Gas Company.

Q. Are the Pittsburgh & West Virginia and the Kentucky-West Virginia Gas Companies affiliated companies?

A. The Kentucky-West Virginia Gas Company stock is

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[fol. 3534] owned by the Philadelphia Company, and the Louisville Gas Company, I believe—I can't tell you exactly.

Q. What, in your opinion, is the life of a gas well in the territory in which the Pittsburgh & West Virginia Gas Company operate?

A. I can't answer that, Judge. It's too broad. Some wells last a year, some wells last twenty years.

Q. Do you recall ever having answered that question before?

A. Not just that question, I think.

Q. Didn't you, as a matter of fact, express the opinion that the life of a gas well in that territory was six years?

A. Well, the average life, yes, sir.

(The witness was excused.)

[fol. 3535] Q. Did Mr. Davis' estimate of this gas in the ground influence your judgment in arriving at the value of the leases?

A. The figures that Mr. Davis got up are figures that I would ask for, in studying a property, and I would want the property somewhat grouped in bunches, if I wanted to

1884

[fol. 3536] find out what the production had been from cer-

tain areas, what the amount of flow was taken out, as he did, and those figures he summarized, and that had a certain influence on my judgment, yes, sir.

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[fol. 3537] From Co. Ex. 102—United Fuel, 1928, Case

Thereupon came C. E. KREBS, a witness of lawful age, introduced on behalf of the respondent, who being first duly sworn, testified as follows:

Direct examination.

By Judge Rummel:

Q. Where do you live, Mr. Krebs?

A. Charleston, W. Va.

Q. What is your profession?

A. I am a mining engineer and geologist.

Q. How long have you been practicing your profession, Mr. Krebs?

A. Since 1894, for about thirty-five years.

Q. What has been your training and experience?

A. I am a graduate of the West Virginia University, in the Class of 1894, with the degree of Bachelor of Science and Civil Engineering. For the first two years I was on a sur-

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[fol. 3538] vey of railroad lands and on construction of railroad work, until 1897, when I came to New River, locating at Kanawha Falls, where I began on mining engineering, surveying coal properties, opening mines, making developments for a number of clients, until 1900, and I then formed a partnership with J. M. Clark and became a member of the firm of Clark and Krebs, and from 1900 until 1908 our work consisted in opening mines, making surveys, locating railroads, tipples, reporting on coal properties and the diamond core drillings and investigating coal properties in the counties of Nicholas, Raleigh, Wyoming, Logan, Mingo and McDowell. In 1908 I was appointed assistant geologist to Dr. I. C. White, and I spent for the next six years about *about* one-half of my time doing geological work for the West Virginia Geological Survey, under the direction of

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[fol. 3539] Dr. I. C. White, State Geologist. In 1909 I collected data of the Counties of Jackson, Mason and Putnam, and completed a map of the geological structures of these counties, and submitted the manuscript and maps to Doctor White, who published them as a detailed report of the three counties in the West Virginia Geological Survey. In 1911 I did this same work for Cabell, Wayne and Lincoln Counties, being assisted by Docter Lutz, who did the office work, and in 1912 I did this same work for the County of Kanawha and submitted my manuscript to Dr. I. C. White.

Q. Covering what minerals?

A. Covering the oil, the gas, the coal, the iron ore, and whatever was in the counties. Also making the structural maps of the surface of the counties, showing the anticlines and the synclines, also compiling the records of all the drillings, the drillings for coal, the boring for oil and gas.

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[fol. 3540] These records were taken from the offices and records from the different operating companies, oil and gas companies, who furnished them to the Geological Survey. In 1913, I made a detailed study and report of Barbour County, W. Va. In 1914 I made a report of Raleigh County and portions of Summers and Mercer Counties, W. Va. At the end of 1914 I left the survey, and since that time my work has consisted of studying the general geology of West Virginia, making detailed reports of Kentucky, some of Virginia, Ohio, and some of Texas, Kansas, Arkansas, Louisiana and Mississippi and several other states. This work consisted in a study of the structures and making reports and locations of oil and gas territory, of looking after some development of different portions, making reports and valuations, and during that time I was employed

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[fol. 3540a] by a number of companies, among the first of which was the United Fuel Gas Company, the Pure Oil Company, when they first came into West Virginia to start drilling for oil and gas. I made a number of locations of wells for them; among others, I helped make the first location of the well that opened up the Cabin Creek country; then I done work for the Manufacturers Company, the Hope Natural Gas Company; I have done considerable geological work and detail work for the Columbus Natural

Gas Company of Ohio; have worked throughout Ohio and Kentucky also; did considerable work for them in the State of Michigan. I have made reports and valuations of a number of oil and gas properties for bankers, for prospective purchasers, also for persons desiring to sell.

Q. Have you made any studies for depletion purposes and taxation purposes?

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[fol. 3541] A. Yes, sir, a number of reports for taxation purposes, figuring the depletion and making a fair valuation for the year 1913 for income Federal taxes.

Q. What did you have to do with the opening up of the Nicholas County gas field for the Hamilton Gas Company?

A. I was employed by them to make a location for the development of that field, after they had drilled two holes, one of which was practically dry, and one with a little showing of gas. After going over and studying the locations I made a number of locations, and I think with the result there was only one or two dry holes, and they were supposed to be dry before we drilled them.

Q. Now, can you give us a general idea as to some of the natural gas companies you have represented and, especially, where you have made examinations of their properties for valuation purposes?

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[fol. 3542] A. In the last two years I made a detail study and report of the United Fuel Gas Company, the Commercial Gas Company, the Monickle Gas Company, the Cambridge Gas Company, the Downing Gas Company; the Oklahoma Land Gas Company; the Superior Oil & Gas Company; the Poca Fork Oil & Gas Company, and also a study of the valuation and assets of the Cumberland & Allegheny Gas Company, and I have recently made a detailed report of a number of small companies located in different counties of West Virginia, among others the holdings of W. H. Bickle in Calhoun County, The Carroll Oil & Gas Company in Kentucky; Miller & McIntosh; the Montgomery Gas Company; the Crowley Gas Syndicate; C. B. Lewis; and the Shields Oil & Gas Company, located in Boone County, and the C. B. Lewis Company being located in Calhoun County.

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[fol. 3543] Q. Those are gas properties, are they?

A. Yes, sir.

Q. I will ask you whether, from your experience, both as a geologist and during the time you served as assistant to Dr. I. C. White, and whether from your experience since you severed your connections with the State Geologist, you have acquired a knowledge of the producing sands, rock pressures of the different properties within the territory extending from Calhoun County on through the southern part of the State, and down into Floyd County, Kentucky?

A. I have.

Q. Are you acquainted with the gas properties of the United Fuel and Warfield Natural Gas Companies?

A. I am.

Q. And have these investigations which you have made and about which you have testified covered properties lying

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[fol. 3544] within the same geological belt as the territory where the properties of the United Fuel Gas Company and the Warfield Natural Gas Company lie?

A. They do and, often, they lie adjacent to the United Fuel Gas Company's properties.

Q. In making these valuations and examinations of gas properties, I will ask you whether or not you have used Boyle's law of Boyle's rule in determin-g gas reserves?

A. I have.

Q. For how long have you been using Boyle's rule?

A. Anywhere from fifteen to twenty years.

Q. Did you use it long before you ever heard of Mr. Ralph E. Davis?

A. Oh, yes, sir.

Q. What is your information and what is your direct knowledge as to the use of Boyle's law or Boyle's rule in estimating the gas reserves of properties by different geol-

1166

[fol. 3545] igists representing different companies?

A. Well, as far as I can ascertain, nearly all of them are using that rule.

Q. Well, have they been doing that for a long period of years?

A. Yes, sir.

Q. How old is this law, if you know?

A. I think it is rather quite old.

Q. Then, what is your best judgment as to what period of time geologists have used this law?

A. My own personal knowledge is from fifteen to twenty years.

Q. Do you know whether or not Dr. I. C. White used it?

A. Yes, sir, he did.

Q. Do you know whether the present State Geologist, Mr. Reger, used it?

A. Yes, sir.

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[fol. 3546] The Witness: I think he does not make calculations.

Q. Now, representing these different companies you have mentioned, I will ask you whether you have acquired a knowledge of the market value of gas leaseholds in the territory in which the United Fuel Gas Company and Warfield Natural Gas Company are operating?

A. I have.

Q. Have you knowledge of the sales of gas leaseholds made in this territory within the last three years?

A. Yes, sir.

Q. I will ask you whether you have represented the purchaser or the seller in a number of these sales?

A. I have.

Q. I will ask you whether a number of sales were consumated upon the valuations you made for the purchasers?

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[fol. 3547] Colonel Wallace: We might suggest that is a little leading.

Judge Rummel:

Q. Is or is not that true?

A. Yes, sir.

Q. Mr. Krebs, have you been furnished with maps and data generally with respect to the gas leaseholds and territory of the United Fuel Gas Company and the Warfield Natural Gas Company?

A. I have.

Q. Have you examined the maps and the data which has been furnished you?

A. I have.

Q. I will ask you whether or not some of this data includes a list of all the leases held by the United Fuel Gas

Company and the Warfield Natural Gas Company as of December 31, 1928?

A. It does.

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[fol. 3548] Q. And does it also include the exhibit giving the detailed information of each well that was owned by the companies on that date?

A. It does.

Q. Have you examined the extra gas well data?

A. I have.

Q. And what have you to say as to whether or not you have a great deal of this data in your office, independently of the information furnished you by the United Fuel Gas Company?

A. I have.

Q. And what have you to say with reference to the gas wells drilled outside of the holdings of the United Fuel Gas Company and the Warfield Natural Gas Company?

A. I have a record of those also in my office.

Q. What is the fact when you are making up reports and making investigations for your clients as to whether you

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[fol. 3549] refer to the information and the data which you have in your office with reference to not only the wells of the United Fuel Gas Company but the wells drilled within the territory owned by these companies?

A. I refer to and get all the information I can of all the drillings adjacent to and in proximity to the property I am examining, studying the records, also the producing sands, the thickness of the pay, and the rock pressure, and the open flow of the properties where I can get it, and I will say, also, for the last few years, I have had access, when I wanted it, to the records of the United Fuel Gas Company. Mr. Wallace always let me have that information in proximity to lands I was investigating.

Q. I will ask you whether you have done quite a good deal of investigation in what is known as the Branchland

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[fol. 3550] field, which includes Lincoln County and adjoining counties?

A. I have. That started in 1912, when I got a record of all the wells in Lincoln County, and the detail reports, and

since that time I have kept it up from time to time in making reports and getting data, so I have been fairly familiar with that field for the last twenty years.

Q. And do you have a method of bringing that data down to date?

A. Yes, sir.

Q. I will ask you whether in the last few years you have made investigations of properties like the River Development Company, the West Side Development Company, and various other properties belonging to different operators in the Lincoln County field?

A. I have.

Q. You have all that data in your office?

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[fol. 3551] A. Yes, sir, I gathered the data and tested the wells.

Q. I will ask if you have examined the exhibit of the lease forms, which has been filed here as being typical forms of the leases held by the United Fuel Gas Company and Warfield Natural Gas Company.

A. I have.

Q. Have you informed yourself, and do you know of your own personal knowledge as to the situation of these companies with respect to offset wells and competitive drilling?

A. I do.

Q. What is your observation as to whether the properties of these companies are protected, in a general way, from outside drilling, and to what extent of these properties are protected from competitive drilling?

A. The properties of the United Fuel Gas Company are well protected, and also as regards to outside drilling, and

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[fol. 3552] it has been my observation to take a reasonable distance and to agree with the operating companies, so as not to locate the wells too close to the lines.

Q. Of the United Fuel Gas Company?

A. Yes, sir.

Q. Does the data and information relating to the gas territory of these companies, in addition to your personal knowledge of the gas fields and gas sands, in which the territory is located, contain sufficient data or information you would want, if you were considering the purchase of

gas leaseholds for yourself or advising your clients to purchase the same?

A. I would say yes, sir.

Q. Will you please now state to the Commission what additional information, other than what has been furnished you, you would require to make up valuation reports upon

1174

[fol. 3553] leaseholds, if you were making such reports for a client of yours?

A. I think the information furnished me would furnish all that.

Q. And is there any additional data you could suggest in determining the value of these leaseholds other than what you have had?

A. I think not.

Q. You testified that a number of several gas properties have recently been sold or purchased upon the reports made by you. I will ask you if in making these reports you examined the leases held by these companies?

A. I did.

Q. Can you now state whether the terms and conditions of the leases involved in those transactions compare with the leases of the United Fuel and the Warfield Natural Gas Companies?

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[fol. 3554] A. They do not, because the leases of the United Fuel Gas Company and the Warfield Natural Gas Company are much more favorable than the other leases.

Q. Favorable to whom?

A. To the operating company.

Q. The United Fuel and the Warfield Natural Gas Companies?

A. Yes, sir.

Q. Is that the general rule, and for that same reason is it a fact that the outside companies in order to obtain gas leases they must offer more favorable terms than the United and Warfield Companies?

A. You mean more favorable terms to the land owners?

A. Yes, sir.

A. That is true.

Q. I will ask you if, in your opinion, the territory of the United Fuel Gas Company and the Warfield Natural Gas

Company described, and including the information which
1176
[fol. 3555] has been furnished you, and about which you have been testifying, were for sale, would there, in your opinion, be a sale for such property?

A. There certainly would be.

Q. Are you able to express an opinion as to the present fair market value of the gas leaseholds of the United Fuel Gas Company, between a willing buyer and a willing seller, excluding the value of the wells, well equipment and physical equipment of every kind?

A. I am.

Q. Are you acquainted with the classifications of this territory as designated Classes 1, 2, 3 and 4, as made by Mr. Davis?

A. I am.

Q. Do you know the basis of the classifications made by him?

A. Yes, sir.

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[fol. 3556] Q. Have you examined the maps of the companies and formed an opinion as to whether these classifications were properly made?

A. I have and I think the classifications are made as near correct as is possible from the information at hand.

Q. Can you express an opinion as to the value of the proven acreage of these companies in Classes 1 and 2?

A. Yes, sir.

Q. Will you please do so?

A. The proven acreage, as calculated by me, from the data at hand, I would make it between $55,000,000 and $60,000,000.

Q. That is the proven acreage?

A. Yes, sir.

Q. I will ask you whether, in arriving at this figure, you have consulted or collaborated with any of the witnesses who have testified as to the value of the gas properties of
1178
[fol. 3557] these companies?

A. I did not. In fact, I did not discuss it with anyone, nor did I hear any of the evidence until this afternoon.

Q. Do you know who has testified in the case other than what you have heard this afternoon?

A. No, sir.

Q. And I will ask whether you have been in conference with the counsel for the company or other people connected with the company in reference to that value?

A. I have not.

Q. And when is the first time you gave any information either to anyone representing the United Fuel Gas Company or the Warfield Natural Gas Company as to your valuation of the properties?

A. I did today about twelve o'clock—gave it to Judge Rummel.

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[fol. 3558] Q. Now, Mr. Krebs, will you proceed to tell the Commission how you arrived at the figure which you have testified to?

A. The first thing I did was to study carefully the location of the leases on the maps, the location of wells on the leases, the proven territory or the territory in classes 1 and 2, 3 and 4, and then I studied the record and the estimated production for the year 1928, being 266 days, and then from the other data that I had on the valuation of adjacent properties, and this data throughout the entire field, I arrived at what I feel is a fair valuation, drawing it up, first, in the different pools, like the Spencer and Clendenin and Kanawha, and combining the entire information.

Q. So that you merged Classes 1 and 2, did you?

A. I took Class No. 1 by itself and Class No. 2 by itself,

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[fol. 3559] and Classes 3 and 4 and made a valuation, what I figured on those classifications.

Q. Well, now, will you state for the record the value you put upon all of the proven acreage in Class 1?

A. The valuation in Class 1, in West Virginia, I made it $48,249,068.80. In Class No. 2, in West Virginia, I made a valuation of $3,069,303.50. In Class 3 I made a valuation of $347,171.05. In Class No. 4 I made a valuation of $1,029,283.72, which makes a total valuation of $52,693,554.07, in West Virginia.

Q. Now, Mr. Krebs, before you go further, what amount did you place per acre for the acreage within Class 1?

A. I put $160.00 an acre.

Q. And for Class 2?

A. $50.00 an acre.

Q. And for Class 3?

A. $5.00 an acre.

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[fol. 3560] Q. And for Class 4?

A. $1.50 an acre.

Q. Now, you went ahead, then, and put a value upon the acreage in Kentucky?

A. Yes, sir. The Class No. 1 I put a value of $100.00 an acre or $2,774,668; Class No. 2 I put a valuation of $40.00 an acre or $840,150.00; Class No. 3 I put a valuation of $5.00 an acre or $168,207.00; Class No. 4 I put a valuation of $1.50 an acre or $532,486.71.

Q. What was the price per acre in Kentucky on No. 1?

A. $100.00 an acre, making a total valuation for the properties in Kentucky of $4,305,503.71; making a total valuation for Kentucky and West Virginia of $56,999,057.78.

Q. What would you say as a whole, then, would be the market value of all the gas territory of the United Fuel Gas Company and the Warfield Natural Gas Company

1182

[fol. 3561] within the states of Kentucky and West Virginia?

A. I would say it would be from $55,000,000 to $60,000,000.

Q. Mr. Krebs, did you include anything in your valuation on account of the oil rights, included in the leasehold estates or covered by the leasehold estates covered by these companies?

A. I did not.

Q. And in giving these estimates of value, have you considered the present state of exhaustion of the properties, and the conditions and obligations of the leases, if a purchaser would purchase these properties at the prices you have stated?

A. I did.

Q. What would you say as to whether the value would apply as of December 31, 1928?

A. It would.

Q. I will ask you whether you have made examinations of

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[fol. 3562] properties within the several pools, where the United Fuel Gas Company and the Warfield Natural Gas Company are operating?

A. I have.

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[fol. 3563] Cross-examination.

By Col. Wallace:

Q. Mr. Krebs, you say that you make reports for gas companies for taxation. Do you use the same method in arriving at your figures for taxation that you do in buying or selling gas companies?

A. That is my intention.

Q. My question is, do you?

A. Yes, sir.

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[fol. 3564] Q. Now, did you make a distinction between the acreage classed as No. 1 and 2 by Ralph E. Davis?

A. I did.

Q. What did you consider as the total proven acreage of the United Fuel Gas Company?

A. In West Virginia 301,556 and 27,746 in Kentucky.

Q. What is the total of the two?

A. 329,303 acres.

Q. What have you in class 2?

A. In West Virginia 61,380 acres and in Kentucky I have 20,753, making a total in the two states of 82,184 acres.

Q. How much of this Class 1 acreage is operated or developed acreage?

A. It was a little over 50 per cent. I haven't the exact figures.

Q. In other words, the United Fuel Gas Company you

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[fol. 3565] regard as having 329,303 acres of land as being Class 1 territory?

A. Yes, sir.

Q. And that has not been developed except 50 per cent?

A. About 50 per cent has been developed, and there has been some drilling on the other to prove the surrounding acreage with a reasonable certainty.

Q. How far is the present development on the remaining 50 per cent?

A. Some places there are some leases undeveloped and there are some off-set wells on adjacent places, enough development to show the continuance of the sand.

Q. You have calculated there is 50 per cent more territory of the United Fuel that should be included as operated territory?

A. As Class 1.
Q. Do you regard that as proven?
A. I say Class 1 is proven.

1191

[fol. 3566] Q. Do you regard Class 1 as proven territory?
A. I do.
Q. Now, what is Class 2?
A. It is proven territory but I put it in at a much less figure.
Q. In other words, Class 2 is a conjecture on your part that it will probably show gas on development?
A. Not probably but it will show gas. Just how much I am unable to say.
Q. But, there is no mathematical certainty what it will show?
A. No, sir, that is a gamble.
Q. I notice that in some instances in Class 1 in West Virginia you put a value of $160 in Class 1 in Kentucky you put at $100 an acre. What is the reason for that?
A. I think the West Virginia sands are more productive than the Kentucky sands.
Q. I notice in Class 2 in West Virginia you have Class 2 at $50 an acre and Kentucky at $40 an acre?

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[fol. 3567] A. That is right.
Q. Now, you have got in West Virginia Class 1, $160 an acre, Class 1 in Kentucky $100 an acre and Class 2 in West Virginia $50 an acre and Kentucky $40 an acre. Why shouldn't the ratio be the same?
A. Well, there are several reasons. The principal reason is the Kentucky Class 2 lies in structure favorable to gas and I have given that acreage the benefit of this.
Q. In other words, you- value is not based upon any mathematical science but conjecture, using the best judgment you have?
A. I would say using my best judgment and counting out conjecture because I have tried to use judgment.
Q. You have no rule for following it out?
A. Except structure and general location and what the sands are doing.

(The witness is excused.)

1523

[fol. 3568] Q. Mr. Krebs, you were asked by Judge Rummel if Dr. White knew anything about Boyle's law. Dr. White was a very learned man, was he not?

A. He was.

Q. And as part of a liberal education he would learn that at college?

A. Yes, sir.

Q. Are you familiar with the fact that the first time the United Fuel Gas Company set up anything on their books for depreciation on gas wells was in Case No. 845 in 1929, aren't you? The first time they claimed depreciated value?

A. I am not familiar with that.

1524

[fol. 3569] Q. You never heard of that until right now?

A. No.

Q. Are you familiar with the fact Dr. White testified in that case?

A. Not of my own personal knowledge.

Q. You think Dr. White knew at that time of Boyle's law, do you?

A. I think so.

Q. And he instructed at the University?

A. Yes, sir.

Q. You stated, I believe, you opened up the Nicholas County field. Had there been development before that?

A. There had been in some portions but not in Hamilton District with the exception of one or two wells drilled about eighteen years ago.

Q. Your state- was that you made a study of the location. Did you study the ground or the maps?

A. I was on the ground.

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[fol. 3570] Q. How many locations did you make?

A. The first time I made about four locations and later on about eight or ten more and still later some more. All told, I made something like eighteen or twenty.

Q. In detailing some studies you have made in the last two years you include the Commercial Gas Company. How extensive a company is that?

A. That was a small company that is located in Cabell and Lincoln Counties. I think it has something like 4,800 acres, or something like that.

Q. Wasn't that a holding company that had some modest amount of Monickle stock?

A. The Commercial Gas Company had 12,000 acres under lease and it was in Cabell and Lincoln Counties, in response to your former question. It was an operating company. They drilled about, I think eight or nine wells,

1526

[fol. 3571] down to the shale gas.

Q. What became of it?

A. The Commercial Gas Company was sold to the West Virginia Gas Corporation.

Q. And the Commercial Gas Company was one of the small companies interlocked with the Monickle and held by the company that Mr. Larner is in control of?

A. It is.

Q. As I understand, you don't know anything about Case No. 845 and the question of depreciated leaseholds?

A. Not of my own personal knowledge.

Commissioner Nethken:

Q. Mr. Krebs, have you ever been engaged in the business of producing gas?

A. I have.

Q. Did you sell the gas to a distributing company?

A. I sold it to the Columbian Carbon Company, who sold it to the Hope Natural Gas Company, and I am interested

1527

[fol. 3572] in a small way now in selling gas to the South Penn Oil Company.

Q. From your experience what portion of the total gas produced from a well will be produced from a well during the first year if permitted to flow into a low pressure line?

A. That is hard to answer because it depends upon a number of conditions to answer it intelligently.

Q. I say from your experience?

A. I couldn't tell you. The first year's production varies considerable on rock pressure, on the porosity of sand and line pressure and in order to give an intelligent answer I would have to look up considerable data over a number of years in order to give it. I can't do it off hand.

Q. Mr. Krebs, how would you determine the amount of gas remaining in a gas well after it has been in service

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[fol. 3573] over a period of years? That is, I mean by that the acreage drained by the well?

A. If I had the initial rock pressure of the well and the rock pressure at this time and the amount of gas produced, then I would use Boyle's law in calculating the remaining amount of gas in the well, left in the well.

Q. Well, in doing that you assume that conditions had not changed, would you not?

A. Not as far as that individual well had been considered.

Q. If it should appear from the time the original rock pressure was taken and the present time, it had been drilled, it would have drained part of the same territory, then Boyle's law would not apply, would it?

A. It would only apply partially. You could analyze it but would have to discount it to the extend of the number

1529

[fol. 3574] of wells drilled.

Colonel Wallace:

Q. Mr. Krebs, you were asked by Judge Rummel if you had knowledge of sales of gas leaseholds in the territory of the United Fuel Gas Company and the Warfield Natural Gas Company in the last three years and you answered yes. Will you give the names of the transactions referred to and the prices paid for them?

A. The first one would be the Wacotock Gas Company in Logan County, containing approximately 32,000 acres of land with 20 wells on same. The sales price was $2,500,000 of which $1,500,000 was cash and $1,000,000 in preferred stock. Also the purchaser had to assume a certain amount of indebtedness, I think possibly about $65,000. The next one is the Commercial Gas Company——

1530

[fol. 3575] Commissioner Nethken:

Q. Pardon me. Do you know how much pipe line there was?

A. They had very little pipe lines.

Colonel Wallace:

Q. Let me inquire, was that a sale of leases or stock transfer?

A. Well, I couldn't answer that, whether the stock was transferred or whether the leases were but the property was transferred.

Q. Do you know what equipment went with those leases?

A. All the equipment on the property at the time.

Q. Do you know what that inventoried?

A. I have not a list but I made a report on the property before it was sold. I did not take an account of the material, it was not very much.

Q. All right, what is the next one?

A. Commercial Gas Company, containing 12,000 acres of leases, 9 wells. This property is in Cabell and Lincoln

1531

[fol. 3576] Count-y between Barboursville and Hamlin and sold for $850,000 of which $510,000 was cash and the balance preferred stock in the West Virginia Gas Corporation.

Commissioner Nethken:

Q. With reference to the consideration are you testifying as from your own personal knowledge?

A. I am. I made a report on the property and made a valuation of same before the sale and know what the value was placed by myself and later on before the deal was made know the amount that was paid for it.

Colonel Wallace:

Q. What is the next one?

A. The next, Monickle Gas Company, which has 4,800 acres of leases in Cabell and Lincoln Counties and also 25 wells. This property was sold for $400,000, of which one half or $200,000 was cash and the balance in preferred

1532

[fol. 3577] stock in the West Virginia Gas Corporation.

Q. Next one?

A. The next is the Oakland Development Company, located in Kanawha County on Big Sandy Creek, 900 acres of leases and I think 9 wells on same. This was sold for $175,000, of which $100,000 was cash and $75,000 in preferred stock in the West Virginia Gas Corporation.

Mr. Scott:

Q. Was the Wocktock bought by the West Virginia Gas Corporation also?

A. Yes, sir.

Colonel Wallace:

Q. What is the next one?

A. That is all I know of, of my own personal knowledge just at this time. I know of others but I have no personal information.

Q. Now, the Wocktock with its 9 wells——

A. 20 wells.

1533

[fol. 3578] Q. That had some pipe lines on it, didn't it?

A. The pipe lines connecting the wells to meters.

Q. And who were its customers?

A. The gas was sold to the United Fuel Gas Company at wholesale.

Q. And the truth is the West Virginia Gas Corporation was organized and did take over that company and it was purely a purchase of stock?

A. I think so.

Q. Take the Commercial, that company had some pipe lines?

A. Yes, sir.

Q. And it was supplying, if I remember right, the Owens Bottle in Huntington and helping out the International Nickel Company?

A. I know it was supplying the International Nickel Company.

Q. And it was likewise a stock transaction and consideration?

A. Yes, sir.

Q. And the next, the Monickle Gas Company, it had some

1534

[fol. 3579] wells and equipment and fourteen or fifteen miles of pipe line, didn't it?

A. Yes, sir.

Q. Now, you wouldn't say that a sale of stock in companies going that way would be analogous at all to the sale of gas leases, would you?

A. Well, there is a cash consideration on these companies of more than fifty per cent.

Q. There is a cash consideration when you sell a horse but it is not analogous to the sale of gas leases?

A. No, sir, but these are gas properties and the question was gas property.

Q. Do you have knowledge of the sales of gas leaseholds in this territory independent of developed property?

A. These are leaseholds because the operating company that was sold held the leaseholds.

Q. But it had likewise some going concern value, did it not? And that going concern value was included in the 1535

[fol. 3580] transaction?

A. Yes sir.

Q. Now, what leaseholds do you know of being sold in any fields of the United Fuel Gas Company and Warfield Natural Gas Company?

A. Do you mean by that developed or undeveloped leases?

Q. I mean just leases.

A. I don't know of any that I could name that had some value unless they had some development.

Q. Don't leaseholds without development have value?

A. The development makes value.

Q. And without development?

A. It depends on the location and terms of the lease.

Q. And it also depends how close those particular leases are to developed territory and pipe lines?

A. It does.

Q. Leaseholds of any considerable number anywhere 1536

[fol. 3581] might be considered favorable ter-itory but have very little value?

A. Very little unless located around proven areas ready to be drilled.

Q. And then you would have to have the further condition of pipe lines unless the people were financially able to put pipe lines to them?

A. If the leaseholds were proven, pipe lines could be gotten there very easily due to the fact there is a ready market for gas at this time.

Q. You don't want to say that any place you can get gas you can get pipe lines, do you?

A. I modify that to mean sufficient gas. I might give an illustration of the Hamilton Oil and Gas Company in Nicholas County. After they had developed about 20 million cubic feet of gas, a large operating gas company con- 1537

[fol. 3582] structed a pipe line thirty odd miles to it at an expense of more than $400,000.

Q. That large operating gas company wanted that for public utility purposes?

A. It was the Hope Natural Gas Company.

Q. You know, as a matter of fact, it sells its gas in Pennsylvania through a regulated market?

A. Yes, sir, but I also know they were glad to get that gas and put the gas in the market, and that being the case, if you have a certain amount of gas today in a territory there will be no trouble to get a company to construct a pipe line and take that gas.

Q. You mean public utility company?

A. Any one.

Q. You don't know of any company putting out such expense except utilities, do you?

1538

[fol. 3583] A. They are usually the ones because they have the market.

Commissioner Nethken:

Q. At what price was the gas sold, Mr. Krebs, in that instance you mentioned?

A. I haven't seen the contract but I was told it was sold for 16 cents a thousand with an additional 1 cent per year up to 20 cents.

Judge Rummel:

Q. Who stood the loss of gas in transit?

A. It was metered on the property and the purchasing company stood the leakage.

Commissioner Nethken:

Q. You said 20 million cubic feet, what do you mean by that, per day?

A. Having an initial open flow of 20 million cubic feet per day.

Q. With what prospect of development, Mr. Krebs?

A. Well, the prospect we had, there would be considerable more development in that territory.

Colonel Wallace: I believe that is all.

The Witness: On page 1160 of my direct testimony, the 1539
[fol. 3584] fifth line, change Barbour to Boone County.

Colonel Wallace:

Q. Do you know where the West Virginia Gas Corporation is selling its gas now?
A. I do not.

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[fol. 3585] And also—

JOHN E. KELLEY, called as a witness on behalf of the Columbus Gas & Fuel Company, being first duly sworn, testified as follows:

Examined by Mr. Turner:

Mr. Turner: Gentlemen, at Page 4801 of the record, Mr. Blundon was to present the data on leaseholds. Have you that ready for us?
Mr. Blundon: No, sir.
Mr. Butler: We are working, Mr. Turner, on all of those things requested, and I think it will be just about a week when they are ready.
Mr. Turner: You understand I did not request it. It was requested by the Commission. I have a witness here in town today that I want to examine about some of that, the subject of that particular exhibit asked for.

Q. State your name, please?
A. John E. Kelley.
Q. Where do you live, Mr. Kelley?
A. Carson City, Nevada.
Q. What is your occupation?
A. Engineer.
Q. Where is your office?
A. 17 Battery Place, New York.
Q. You are an engineer?
A. I am licensed to practice by the State of New York.
Q. Have you had any experience in purchasing gas lands in the State of West Virginia?
A. In the years 1929——

Q. You can answer that yes or no?
A. Yes, sir.

5079

[fol. 3586] Q. Have you had experience purchasing gas lands elsewhere in the country?
A. Pennsylvania, Kentucky, Texas and Oklahoma.
Q. About how many acres of gas land have you purchased, Mr. Kelley, or leased?
A. Including leases in excess of 400,000.

Chairman Geiger: 400,000 acres?
The Witness: Yes.

Q. How many acres have you leased in the State of West Virginia?
A. Approximately 80,000.
Q. Do you know Frank H. Yates, who had some leaseholds in Mingo or Wayne County, West Virginia?
A. Yes.
Q. Did you buy those lands or those leaseholds from Mr. Yates?
A. Yes.
Q. In the first place tell us how many acres there were?
A. May I refresh my memory by looking at that?
Q. Yes.
A. I ask the Commission's pardon, but I bought over a hundred properties, and I can't remember the leaseholds in each one of them. In this particular property of Frank H. Yates——

Mr. Butler: Will you wait a moment, Mr. Kelley, please.
The Witness: Yes.
Mr. Butler: Will you reserve for us an objection and exception, so that we will not interfere? I do not know where gentlemen are coming out.
Mr. Turner: We are offering this in rebuttal of the testimony by Mr. Blundon that he had gathered the considerations paid from reading the deeds on file in the various court houses in West Virginia. Of course, we objected very strenuously to that evidence, but it was admitted.

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[fol. 3587] Mr. Butler: That is, deeds to the United?

Mr. Turner: To everybody, and this is one to which he particularly referred at Page 4798.

The Witness: We purchased for Twin Cities Natural Gas Company, a Delaware corporation, in August, 1930, in Mingo County, West Virginia, one tract of land of 296 acres, with two producing gas wells thereon; paid Mr. Yates a consideration of $100,000.00.

Q. In money?

A. Half of which was paid in cash, and half in notes secured by a deed of trust.

Q. Were the notes paid?

A. Yes.

Commissioner Geiger: 296.

The Witness: 296 acres.

Commissioner Geiger: For $100,000.00.

The Witness: $100,000.00.

Q. You told me there were two wells on that property. Do you have the wells appraised, the present value of the wells?

A. Yes.

Q. What was the present value of the wells?

A. $16,000.00.

Q. Now, I wish you would——

Mr. Butler: Have you copies of the contracts for us, Mr. Turner?

Mr. Turner: No, I have not. I just got a hold of Mr. Kelley. I haven't copies of the contracts. It was paid in cash.

Commissioner Geiger: Half cash.

Mr. Turner: Half cash and the other in notes that has been paid. The notes have been paid so that it is all cash.

Mr. Butler: I thought there was some memoranda.

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[fol. 3588] Q. Have you any memorandum about the Yates sale?

A. I have given you a copy of the deed of trust which recites the tracts of land involved, and the maturity of the deferred payments.

Mr. Turner: If you want this in, gentlemen, I will put it in.

Mr. Butler: I don't ask for it. Will you give us a copy of it?

Mr. Turner: No, not unless it goes in evidence.

Mr. Butler: Oh, well, all right.

Q. I wish you would detail to the Commission the gas lands which you bought in the State of West Virginia or leased in the State of West Virginia, or the leaseholds you bought, any way you put it, only tell the Commission how it was and the prices you paid for it.

A. We paid in the year 1929 approximately two million dollars, which was either all in cash or in cash and notes which have since been paid; and in the year 1930, we spent $5,802,000.00, which was either all in cash, in notes which have since been paid, or in notes which mature on the 26th day of this month.

Q. How many acres did you get altogether?

A. 89,000.

Commissioner Hopple: Pardon me, give me the dollars consideration again for lands in 1929.

The Witness: $1,895,000.00.

Q. How many acres in 1929?

A. Approximately 14,000.

Commissioner Geiger: And '30.

The Witness: In '30 we bought 89,000 acres for $5,894,000.00.

Commissioner Geiger: How many acres?

[fol. 3589] The Witness: 89,000. 5082

Q. Now, in cases where there were wells on the property did you have the wells appraised?

A. In every case.

Q. I wish you would deduct the price of the well or the value of the well and give to us the average price per acre that you paid in West Virginia for these leaseholds?

A. Deducting the value of the well?

Q. Yes, sir, just so that we have nothing but the leaseholds?

A. Deducting the value of the wells for proven property, classes 1 and 2 at the rate of $100.00 an acre?

Q. And for the other?

A. Class 2, undrilled, $75.00 an acre.

Q. Is there any other?

A. Class 3, approximately $22.00; Class 4, $4.25.

Q. Have you had any experience in the cost of abstracting the title to West Virginia gas leases?

A. Yes.

Q. What has been your experience as to the cost per lease of the abstract?

A. I beg your pardon? Per acre?

Q. No, per lease.

A. That is a little difficult to say. I haven't the figures to know how many individual leases. I know the cost of each group of properties and the number of acres contained therein.

Q. In the absence of the other figures, we will have to take it the other way. I would have preferred the cost per lease, but give us the available figures.

A. The cost per lease of abstracting varied from——

Commissioner Geiger: The cost per lease or per acre.

The Witness: Per acre. I beg your pardon. Varied from $2.37 to $1.69 per acre.

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[fol. 3590] Commissioner Geiger: What was the total amount you paid for abstracting?

The Witness: $98,000.00.

Q. Do you know whether or not any other person or company bid more and paid more for gas leases in West Virginia than you did.

Mr. Butler: If that is mere hearsay——

Mr. Turner: No, no. I said, "Do you know?"

The Witness: In two cases, yes.

Q. What are those two cases?

A. In the case of the Harshbarger Oil & Gas Company, which operated the utility and surplus gas in the town of Milton, West Virginia, between Huntington and Charleston, we had approximately 33 wells, 3000 acres of land. I bid 225,000 dollars for the property, in May, 1930. It was sold to the Hamilton Gas Company for $425,000.00—in November, 1930.

Q. What was the other instance?

A. The other instance is the Mid-Penn Gas Company near Charleston in Central West Virginia, in October, 1930.

In October, 1930, I bid $300,000.00 for 2,200 acres and 23 wells, which I did not propose to pay any part of in cash; proposed to pay in notes maturing over a period of three years. My client did not go further with the deal and the property was sold for $300,000.00, all cash, to Hope Natural Gas Company in January, 1931.

Mr. Turner: You may cross-examine.

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[fol. 3591] Cross-examination.

By Mr. Butler:

Mr. Butler: I assume this is testimony in chief, but we will not stop to argue about that.

Mr. Turner: No, I offered no such testimony and do not claim I had a right to offer it in chief.

Q. Mr. Kelley, I was not paying very close attention. I wondered if you are still a citizen of Nevada or just born there?

A. I am a citizen of Nevada, and unfortunately, a taxpayer.

Q. I sympathize with you. You are about 35 years old?

A. 38.

Q. You are an engineer?

A. Yes, sir.

Q. What kind of engineer? I don't mean good or bad, but some other description that will fit in.

A. As the profession is differentiated; a mining engineer.

Q. You are a mining engineer?

A. Yes, sir.

Q. I suppose you served your apprenticeship out west?

A. I spent five years in Mexico.

Q. What were you hunting for there?

A. Gold, silver, bandits and what-not.

Q. When did you come east, Mr. Kelley?

A. 1921.

Q. Have you had personal business since then?

A. I beg your pardon.

Q. Have you had a personal business or are you associated with some company or partnership?

A. No, I have always been in private practice.

Q. You went to New York in 1921?

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[fol. 3592] A. I had lived in New York before 1921, but in 192-, I returned from Honduras, and I have since had an office there.

Q. Now, you devote yourself as I understand to oil and gas since that time?

A. Exclusively since 1923 and practically since 1921.

Q. In doing that, do you go down to the Mid-Continent or Southwestern Fields, too?

A. I have been, yes, sir.

Q. Have you been down there much or has it been rather in this central district?

A. I have made 14 trips to Oklahoma in connection with the examination of gas properties, three to Texas and two to Kansas.

Q. And you have done a good deal of work in Ohio, Pennsylvania and West Virginia?

A. With the exception of Ohio.

Q. You have not done any in Ohio?

A. No.

Q. How did you escape Ohio?

A. People in Ohio had such a high regard for the gas business that their prices were always more than I could afford to pay.

Q. People generally?

A. People who owned gas lands.

Q. That is interesting. That extended back to about 1921?

A. No, sir.

Q. 1923?

A. 1929.

Q. Oh, you did not discover these prohibitive prices on the part of people in Ohio until 1929?

A. I did not try to buy property in Ohio until 1929.

Q. By the way, I suppose in your capacity as an engineer, you have investigated and found what gas companies in Ohio were paying for gas acreage?

A. Yes, sir.

Q. Made an investigation of the Ohio Fuel Gas, did you?

A. No.

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[fol. 3593] Q. How did you escape that? It is a rather big company?

A. When I am retained by a client, I follow his instructions as to what I investigate.

Q. How is that?

A. When I am retained by a client, I follow his instructions as far as possible as to who and what I am going to investigate. I have never had—I have never been retained to investigate the Ohio Fuel Gas Company.

Q. I know, but in trying to find out values out here, wouldn't you try to ascertain what they were paying for acreage they were adding to their holdings?

A. No, I would go about it the other way. I would look for all possible sales, regardless of who bought.

Q. Well, in 1929, when you were out here, you did look for all possible sales?

A. Yes.

Q. Didn't you find that sales were being made to the Ohio Fuel Gas Company?

A. I did not understand that that was what you asked me.

Q. I am asking it now. We will let the other controversy pass?

A. I don't remember, counsellor.

Q. You don't remember?

A. Whether I heard any particular ones of this or the East Ohio——

Q. This is not merely hearsay. You investigate. You go down to the bottom of it, don't you?

A. Yes, but let me explain to you. I try to buy a property. Obviously, the Ohio Fuel Gas won't have one for sale, at least to my clients. I did not come to Columbus to buy their property. I go to independents to investigate their property which they have to sell, or property which they have offered to my clients. I come out and investigate that property.

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[fol. 3594] Q. Isn't it of value to find out what independents are charging for the property they are selling?

A. Yes.

Q. Now, you did not investigate this?

A. No, you asked me acreage. Acreage means to me undrilled properties. I rarely buy that unless to supplement an acreage I am buying immediately adjoining it.

Q. You don't get mere acreage?

A. If you already — an investment in the field, it is absolutely necessary to have Class 3 and 4 in connection with your 1 and 2. If you are coming into a field, you don't start right off buying acreage. You buy income producing property. Then you concern yourself with the acreage necessary to carry your gas reserves.

Q. So you would not think of starting with mere acreage?

A. No, sir.

Q. You would want to start with developed or semi-developed property?

A. Yes, sir.

Q. Now, you are talking about 1, 2, 3 and 4. What do you mean by that?

A. Class 1 acreage is proven producing acreage, as I define it. Class 2 is proven but as yet undrilled, as yet undrilled or very little drilled. Class 3 is probable acreage. Class 4 is possible acreage.

Q. In 2, you include some drilled acreage?

A. Well, if you had a tract, let's say of a thousand acres adjoining Class 1 acreage, and on the extreme far corner from the Class 1 acreage and out into the Class 3 for acreage not held at all, there were one well, I would not class the thousand acres as Class 1 because of that.

Q. Well, what makes the two acreage?

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[fol. 3595] A. The two acreage is acreage which immediately adjoins producing property.

Q. It has to adjoin producing property?

A. That is, within a mile; not necessarily producing property of the same interest.

Q. The same owner, you mean?

A. Yes.

Q. Oh, yes, I quite understand that. Does it or does it not have a producing well on it?

A. Not necessarily. In most cases, no.

Q. When you get a producing well, don't you take it into Number 1?

A. It depends very largely on the location of the well and the size and shape of the acreage.

Q. So that you will use your judgment whether you took it over into one?

A. Yes, sir.

Q. You might have a good producing well and still keep it in two.

A. In the example I gave a while ago, unless the well were very large, it would not be connected to the line immediately. You would leave it out there until you had more development, whereupon it would become Class 1 acreage.

Q. Then let me revise my question. Acreage that has a well that is connected up becomes Class 1 acreage?

A. Yes, some part of it. If the tract were 10,000 acres, you would not assume, and I would not assume, that all of that tract was proven by one well. All of that would not automatically become Class 1 acreage.

Q. How much do you assign to Class 1 acreage?

A. That depends on factors, on the wells on the line, on leases of other interests, and on the log of the well—roughly, one hundred acres.

Q. How do you operate, on a salary, for your clients, or

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[fol. 3596] on commission?

A. In various ways. I have operated in both of those you mentioned.

Q. How?

A. I have operated in both of those.

Q. What is your usual method, Mr. Kelley?

A. On a fee.

Q. That is, a per diem?

A. Yes.

Q. Have you operated upon a commission for some large concerns?

A. I have never taken a commission.

Q. I guess I didn't understand you. You mean all of your work is on a per diem basis?

A. No, I receive compensation in the shares or other securities of the corporation to be formed as a result of my efforts.

Q. Oh, I see. You go out and buy—probably first secure options, don't you?

A. The options are secured usually by the middleman, who brings them to the client, who retains the engineer to go out and look at them.

Q. The options are secured and brought to the middleman?

A. I suppose the middleman goes out and gets them from the farmer.

Q. Somebody, the middleman, we will call him, goes out and gets the options and brings them to your client, and then your client retains you, and you lay the basis for the possible purchase of those properties in organizing a corporation to take them in and issue securities; is that your method of operation?

A. There are 57 different kinds of investment bankers and each of them has his rule, but generally that is so.

Q. What is that?

A. Generally so.

Q. I am talking about your experience. I don't care 5090

[fol. 3597] what the other fellow is doing.

A. I work for many bankers and they all have different ways of going about it.

Q. Does that substantially and fairly indicate the method?

A. Yes.

Q. In West Virginia, whom have you represented down there? Who has been your clients?

A. The Twin Cities Natural Gas Company; the Jerbian Corporation.

Q. What others?

A. E. R. Diggs & Company.

Q. Is that the E. R. Diggs & Company that is now in the hands of a receiver?

A. My best recollection is that a receiver gave it up last week.

Q. What do you mean—"gave it up"?

A. I suppose it was duly interred with fitting ceremonies.

Q. That may be funny but I was decently desirous of getting the facts.

A. Well, Counsellor, it was not funny to me.

Q. Because you had part of the interest in it?

A. No, but I bought some of their securities.

Q. It is about the same thing. But securities and company were interred?

A. I don't think the securities are, but the banking house failed through trying to support its market, as much larger ones have.

Q. Is that Jerbian, the Jerbian that is in the hands of a receiver now?

A. Yes.

Q. Did you get caught with securities there?

A. They had no securities.

Q. Did you get caught with anything in that?

A. I must ask counsel to clarify the question.

Q. Did you have any interest in that company?

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[fol. 3598] A. In the Jerbian Corporation?

Q. Yes?

A. No.

Q. You had even been paid in full. So the receivership did not hurt you?

A. Not in that respect.

Q. What kind of a corporation was the Jerbian?

A. The Jerbian Corporation is one similar to that possessed by every investment banking house that I know that is set up for the purpose of acquiring properties, forming companies and transferring the assets.

Q. But you bought how much property for them?

A. Roughly 89,000 acres.

Q. What have they done with it?

A. Transferred it to these companies that own it now.

Q. All of it is passed on?

A. Yes.

Q. Was the Jerbian purely a corporation for buying acreage and then disposing of it to those who might want it or use it?

A. No, they disposed of acreage to corporations formed by the same banking house for the purpose of owning and operating the acreage.

Q. In other words, the banking house formed the Jerbian Company, which got the acreage; then the banking house formed other companies to whom the Jerbian sold the acreage?

A. Yes.

Q. Pretty nearly traded with themselves, didn't they?

A. That is customary in investment banking always.

Q. Oh, is it indeed? Now, will you be good enough to give me the name of the corporations that the bankers formed to take this acreage over from the Jerbian.

A. In 1929, Inland Utilities, Incorporated, Southeastern

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[fol. 3599] Gas Company, Boone County Utilities Company, The Montgomery Gas Company. In 1930, Twin Cities Natural Gas Company, Midland Natural Gas Company, Municipal Gas Company of West Virginia, Greene——

Q. In other words, after the bankers had formed Jerbian and purchased this acreage, they formed eight separate corporations to take over that acreage?

A. Yes.

Q. Were they utility companies?

A. Some of them were. Montgomery Gas Company is. Boone County Utilities is.

Q. Montgomery and Boone?

A. And Municipal Gas Company of West Virginia.

Q. Three of them?

A. Three of them.

Q. What are the other five?

A. They sell gas at wholesale—a non-regulated market.

Q. Do you know to whom they sell in a non-regulated market?

A. Almost everybody in West Virginia that buys gas. Warfield Natural Gas Company, Hamilton Gas Corporation, Kentucky-West Virginia Gas Company, Clayco Gas Company, United Fuel, South Penn Oil Company, Glendenin Gasoline Company, Ohio Valley Gas Company, Godfrey L. Cabot, Incorporated, Hope Natural Gas Company, Columbian Carbon, Pittsburgh and West Virginia, Libby-Owens, Manufacturers Light and Heat, the Equitable, the Peoples, and the Cumberland.

Q. When you speak of the Cumberland, do you mean the Cumberland & Allegheny?

A. Yes, sir.

Q. Are you the engineer for all of those eight companies?

A. No, I am engineer for the banking house.

Q. Who are the bankers?

A. E. R. Diggs & Company.

Q. I thought you said—didn't you say they had been in-

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[fol. 3600] terred?

A. Well, as of what date is your question, Mr. Butler?

Q. As of what date was your answer?

A. As of the date of the acquisition of these properties. The banking house then was in an extremely healthy condition.

Q. But now?

A. Now, it is not, and it has much company.

Q. I thought that went into the hands of a receiver?

A. They did.

Q. And you said, I understood, in a facetious way, for which I am not criticising, that they had been interred or disposed of. What did you mean by that?

A. To clarify that, they went in the hands of a receiver on November 1, 1930, and on October 16, 1931, the Irving Trust Company, as receivers in bankruptcy in the Southern District of New York, applied for an order from the Federal Court discharging the bankrupt. I should add to my answer that this is the banking house and not the gas companies.

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[fol. 3601] Q. Well, as I understand, the court restored to Diggs & Company all of its property, or did they get discharged by surrendering all of their property?

A. The Banking house had various properties, but the equity stock in these corporations had, as of November 1st, 1930, been transferred to other banking houses in New York, so, so far as the E. R. Diggs & Company were concerned, they had no further voice in the ownership or management of these companies past that date.

Q. You say you are still representing the banking house?

A. I beg your pardon. I said as of the date of the acquisition of these properties.

Q. I asked you who is representing these eight companies?

A. No one here as far as I know.

Q. I asked you if you did and you said no, you represented the banking house.

A. I misunderstood your question. I thought you meant as of the date of acquisition.

Q. You have no connection with any of those now?

A. Except as a stockholder.

Q. In how many of them are you a stockholder?

A. There are only three companies that are publicly financed, that is to say, Twin Cities, Southwestern and Midland.

Q. You still give attention to those, don't you, as an engineer?

A. No.

Q. You say that Jerbian is in the hands of a receiver?

A. Yes, because all of its capital stock was owned by Diggs, and they automatically went when the parent house went.

Q. Who owns the stock of these eight companies, Jerbian, or did they go to Diggs?

A. No, again I must ask as of what date is your question?

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[fol: 3602] Q. The time it went in the hands of a receiver.

A. It was then largely owned by American Foundries, the Hibernia Trust Company, the Continental and Commercial in Chicago.

Q. Do you know how this 89,000 acres was distributed among these eight companies?

A. Yes.

Q. In what proportions?

A. Roughly 39,000 belonged to Midland and its subsidiaries.

Q. Midland? Was that a public utility?

A. No, Midland Natural Gas Company owns the Municipal Gas Company of West Virginia, which is a public utility.

Q. But 39,000 went to them?

A. Yes.

Q. It sells a very large amount of gas to its subsidiary, doesn't it?

A. I don't think it sells any gas to its subsidiaries. I think its subsidiaries produce all of their own gas.

Q. The Midland sells to Public Utilities, does it not?

A. It sells to pipe line companies. As to whether under the Pennsylvania statute that is a public utility or not, I do not know.

Q. Put it differently. It sells either directly to public utilitites or to pipe lines that supply public utilities?

A. Yes.

Q. All right. That is 39,000. Give me the rest.

A. The Twin Cities owns about 18,000.

Q. Eighteen? That, you say, is not what you call a public utility?

A. No, that is strictly a wholesaling company, no subsidiaries.

Q. It sells likewise to public utilities or pipe lines largely

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[fol. 3603] that supply public utilities?

A. Yes, sir.

Q. Very good.

A. And all of the remaining acreage belongs to the Southeastern Gas Company.

Q. Southeastern Gas? How many acres would that be? 57—well, about 31?

Mr. Calland: 32.

Mr. Butler: 32? I don't know.

Q. How many has Southeastern Gas Company?

A. Whatever the difference was, Mr. Butler.

Q. I am asking you to compute it.

Mr. Turner: He is figuring it. He has got his pencil working there.

Mr. Butler: All right.

The Witness: I should say about 32,000 acres.

Q. To whom does it sell?

A. It sells to Hope Natural Gas Company, United Fuel Gas Company, South Penn Oil Company, Glayco Gas Company and Godfrey L. Cabot, Incorporated.

Q. What are the Clayco and Godfrey L. Cabot? What kind of companies are they?

A. Cabot is a wholesaler of gas who also is a large producer in central West Virginia and at one time owned a large number of public utilities there. Clayco is a subsidiary I think of South Penn Oil Company.

Q. And is a public utility?

A. No, I think not.

Mr. Blundon: Yes, it is.

The Witness: Are they?

Mr. Blundon: Yes.

Q. Cabot sells to utilities?

A. He sells principally to Hope Natural Gas Company.

Q. That leaves some of those eight companies who did

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[fol. 3604] not get this acreage. You told me that those eight companies got that acreage, but we find out that three of them got the total acreage.

A. No, no. Southeastern Gas Company, Montgomery and Boone County were subsidiaries of Inland Utilities. That makes up one of your missing companies. The others, as I said, were included in Midland Natural Gas in the 39,000 acres.

Q. How was that acreage located? Scattered, or how? Or in one body?

A. Just about as much scattered and no more than that of any other company operating in West Virginia. I mean there are in West Virginia no very large tracts of land held by one interest except in Mingo County, that is, [redacted] pared with acreage in Mid-Continent field.

Q. In how many counties is this?

A. Roughly 20.

Q. And to how many fields was it attached or of how many fields was it a part?

A. I considered it all a part of the Appalachian field.

Q. Don't you recognize special fields in West Virginia by names?

A. Pools as portions of fields. Five.

Q. How many pools?

A. The properties of Midland Natural Gas are in Greene County, Pennsylvania and across the land into the State of West Virginia as far as Clarksburg.

The properties of Twin Cities Natural Gas Company are from Charleston, West Virginia to Prestonsburg, Kentucky, lying south of the Kanawha River, an extension of 110 miles as the crow flies.

The properties of the Southeastern Gas Company extend from about Spencer, West Virginia to Eastern Kentucky.

Q. How much of that was No. 1 acreage?

A. About 72 per cent.

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[fol. 3605] Q. How many wells?

A. 712.

Q. You mean that you bought 712 wells?

A. Yes.

Q. How much was what you call No. 2.

A. About 18 per cent.